

report shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved. Political committees may file reports under this section by any of the means permissible under 11 CFR 100.19(d)(3).

(d) *Verification.* Political committees must verify reports of independent expenditures filed under paragraph (b) or (c) of this section by one of the methods stated in paragraph (d)(1) or (2) of this section. Any report verified under either of these methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(1) For reports filed on paper (e.g., by hand-delivery, U.S. Mail or facsimile machine), the treasurer of the political committee that made the independent expenditure must certify, under penalty of perjury, the independence of the expenditure by handwritten signature immediately following the certification required by 11 CFR 104.3(b)(3)(vii).

(2) For reports filed by electronic mail, the treasurer of the political committee that made the independent expenditure shall certify, under penalty of perjury, the independence of the expenditure by typing the treasurer's name immediately following the certification required by 11 CFR 104.3(b)(3)(vii).

(e) *Where to file.* Reports of independent expenditures under this section and 11 CFR 109.10(b) shall be filed as follows:

(1) For independent expenditures in support of, or in opposition to, a candidate for President or Vice President: with the Commission and the Secretary of State for the State in which the expenditure is made.

(2) For independent expenditures in support of, or in opposition to, a candidate for the Senate:

(i) For regularly scheduled reports, with the Secretary of the Senate and the Secretary of State for the State in which the candidate is seeking election; or

(ii) For 24-hour and 48-hour reports, with the Commission and the Secretary of State for the State in which the candidate is seeking election.

(3) For independent expenditures in support of, or in opposition to, a candidate for the House of Representatives: with the Commission and the Secretary of State for the State in which the candidate is seeking election.

(4) Notwithstanding the requirements of paragraphs (e)(1), (2), and (3) of this section, political committees and other persons shall not be required to file reports of independent expenditures with the Secretary of State if that State has obtained a waiver under 11 CFR 108.1(b).

(f) *Aggregating independent expenditures for reporting purposes.* For purposes of determining whether 24-hour and 48-hour reports must be filed in accordance with paragraphs (b) and (c) of this section and 11 CFR 109.10(c) and (d), aggregations of independent expenditures must be calculated as of the first date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated, and as of the date that any such communication with respect to the same election is subsequently publicly distributed or otherwise publicly disseminated. Every person must include in the aggregate total all disbursements during the calendar year for independent expenditures, and all enforceable contracts, either oral or written, obligating funds for disbursements during the calendar year for independent expenditures, where those independent expenditures are made with respect to the same election for Federal office.

[68 FR 417, Jan. 3, 2003]

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

(a) *Principal campaign committee of House of Representatives or Senate candidate.* Each treasurer of a principal campaign committee of a candidate for the House of Representatives or for the Senate must file quarterly reports on the dates specified in paragraph (a)(1) of this section in both election years and non-election years, and must file additional reports on the dates specified in paragraph (a)(2) of this section in election years.

(1) *Quarterly reports.* (i) Quarterly reports must be filed no later than the

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15th day following the close of the immediately preceding calendar quarter (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year must be filed no later than January 31 of the following calendar year.

(ii) The report must be complete as of the last day of each calendar quarter.

(iii) The requirement for a quarterly report shall be waived if, under paragraph (a)(2) of this section, a pre-election report is required to be filed during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(2) *Additional reports in the election year.* (i) *Pre-election reports.* (A) Pre-election reports for the primary and general election must be filed no later than 12 days before any primary or general election in which the candidate seeks election. If sent by registered or certified mail, Priority Mail or Express Mail with a delivery confirmation, or with an overnight delivery service and scheduled to be delivered the next business day after the date of deposit and recorded in the overnight delivery service's on-line tracking system, the postmark on the report must be dated no later than the 15th day before any election.

(B) The pre-election report must disclose all receipts and disbursements as of the 20th day before a primary or general election.

(ii) *Post-general election report.* (A) The post-general election report must be filed no later than 30 days after any general election in which the candidate seeks election.

(B) The post-general election report must be complete as of the 20th day after the general election.

(b) *Principal campaign committee of Presidential candidate.* Each treasurer of a principal campaign committee of a candidate for President shall file reports on the dates specified at 11 CFR 104.5(b) (1) and (2).

(1) *Election year reports.* (i) If on January 1 of the election year, the committee has received or anticipates receiving contributions aggregating \$100,000 or more, or has made or anticipates making expenditures aggregating

\$100,000 or more, it shall file monthly reports.

(A) Each report shall be filed no later than the 20th day after the last day of each month.

(B) The report shall be complete as of the last day of each month.

(C) In lieu of the monthly reports due in November and December, a pre-election report shall be filed as prescribed at paragraph (a)(2)(i) of this section, a post-general election report shall be filed as prescribed at paragraph (a)(2)(ii) of this section, and a year-end report shall be filed no later than January 31 of the following calendar year.

(ii) If on January 1 of the election year, the committee does not anticipate receiving and has not received contributions aggregating \$100,000 and does not anticipate making and has not made expenditures aggregating \$100,000, the committee shall file a preelection report or reports, a post general election report, and quarterly reports, as prescribed in paragraphs (a)(1) and (2) of this section.

(iii) If during the election year, a committee filing under 11 CFR 104.5(b)(1)(ii) receives contributions aggregating \$100,000 or makes expenditures aggregating \$100,000, the treasurer shall begin filing monthly reports at the next reporting period.

(2) *Non-election year reports.* During a non-election year, the treasurer shall file either monthly reports as prescribed by paragraph (b)(1)(i) of this section or quarterly reports as prescribed by paragraph (a)(1) of this section. A principal campaign committee of a Presidential candidate may elect to change the frequency of its reporting from monthly to quarterly or vice versa during a non-election year only after notifying the Commission in writing of its intention at the time it files a required report under its pre-existing filing frequency. The committee will then be required to file the next required report under its new filing frequency. The committee may change its filing frequency no more than once per calendar year.

(c) *Political committees that are not authorized committees of candidates.* Except as provided in paragraph (c)(4) of this section, each political committee that is not the authorized committee of a

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candidate must file either: Election year and non-election year reports in accordance with paragraphs (c)(1) and (2) of this section; or monthly reports in accordance with paragraph (c)(3) of this section. A political committee reporting under paragraph (c) of this section may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or *vice versa*. A political committee reporting under this paragraph (c) may change the frequency of its reporting only after notifying the Commission in writing of its intention at the time it files a required report under its current filing frequency. Such political committee will then be required to file the next required report under its new filing frequency. A political committee may change its filing frequency no more than once per calendar year.

(1) *Election year reports*—(i) *Quarterly reports*. (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The reports shall be complete as of the last day of the calendar quarter for which the report is filed.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5(c)(1)(ii) a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(ii) *Pre-election reports*. (A) Pre-election reports for the primary and general election shall be filed by a political committee which makes contributions or expenditures in connection with any such election if such disbursements have not been previously disclosed. Pre-election reports shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, Priority Mail or Express Mail with a delivery confirmation, or with an overnight delivery service and scheduled to be delivered the next business day after the date of deposit and recorded in the overnight delivery service's on-line

tracking system, the postmark on the report shall be dated no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(iii) *Post-general election reports*. (A) A post-general election report shall be filed no later than 30 days after any general election.

(B) The report shall be complete as of the 20th day after the general election.

(2) *Non-election year reports*—(i) *Semi-annual reports*. (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(3) *Monthly reports*. (i) Except as provided at 11 CFR 104.5(c)(3)(ii), monthly reports shall be filed no later than 20 days after the last day of the month.

(ii) In lieu of the monthly reports due in November and December, in any year in which a regularly scheduled general election is held, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), a post general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(iii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(4) *National party committee reporting*. Notwithstanding anything to the contrary in this paragraph, a national committee of a political party, including a national Congressional campaign committee, must report monthly in accordance with paragraph (c)(3) of this section in both election and non-election years.

(d) *Committees supporting Vice Presidential candidates*. The treasurer of a committee supporting a candidate for the office of Vice President (other than a nominee of a political party) shall file reports on the same basis that the principal campaign committee of a Presidential candidate must file reports under 11 CFR 104.5(b).

(e) *Date of filing*. A designation, report or statement, other than those addressed in paragraphs (f), (g), and (j) of this section, sent by registered or certified mail, Priority Mail or Express Mail with a delivery confirmation, or

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with an overnight delivery service and scheduled to be delivered the next business day after the date of deposit and recorded in the overnight delivery service's on-line tracking system, shall be considered filed on the date of the postmark except that a twelve day pre-election report sent by such mail or overnight delivery service must have a postmark dated no later than the 15th day before any election. Designations, reports or statements, other than those addressed in paragraphs (f), (g), and (j) of this section, sent by first class mail, or by any means other than those listed in this paragraph (e), must be received by the close of business on the prescribed filing date to be timely filed. Designations, reports or statements electronically filed must be received and validated at or before 11:59 p.m., eastern standard/daylight time on the prescribed filing date to be timely filed.

(f) *48-hour notification of contributions.* If any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 a.m. of the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be filed in accordance with 11 CFR 100.19. The notification shall be in addition to the reporting of these contributions on the post-election report.

(g) *Reports of independent expenditures—(1) 48-hour reports of independent expenditures.* Every person that must file a 48-hour report under 11 CFR 104.4(b) must ensure the Commission receives the report by 11:59 p.m. Eastern Standard/Daylight Time on the second day following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated. Each time subsequent independent expenditures by that person relating to the same election as that to

which the previous report relates aggregate \$10,000 or more, that person must ensure that the Commission receives a new 48-hour report of the subsequent independent expenditures by 11:59 p.m. Eastern Standard/Daylight Time on the second day following the date on which the \$10,000 threshold is reached or exceeded. (See 11 CFR 104.4(f) for aggregation.)

(2) *24-hour reports of independent expenditures.* Every person that must file a 24-hour report under 11 CFR 104.4(c) must ensure that the Commission receives the report by 11:59 p.m. Eastern Standard/Daylight Time on the day following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated. Each time subsequent independent expenditures by that person relating to the same election as that to which the previous report relates aggregate \$1,000 or more, that person must ensure that the Commission receives a 24-hour report of the subsequent independent expenditures by 11:59 p.m. Eastern Standard/Daylight Time on the day following the date on which the \$1,000 threshold is reached or exceeded. (See 11 CFR 104.4(f) for aggregation.)

(3) Each 24-hour or 48-hour report of independent expenditures filed under this section shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(4) For purposes of this part and 11 CFR part 109, a communication that is mailed to its intended audience is publicly disseminated when it is relinquished to the U.S. Postal Service.

(h) *Special election reports.* (1) Within 5 days of the setting of a special election, the Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and for political committees, other than authorized committees, which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall publish such reporting dates in the FEDERAL REGISTER and shall notify

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the principal campaign committees of all candidates in such election of the reporting dates. The Commission shall not require such committees to file more than one pre-election report for each election and one post-election report for the election which fills the vacancy.

(2) Reports required to be filed under 11 CFR 104.5(a) or (c) may be waived by the Commission for committees filing special election reports if a report under 11 CFR 104.5(a) or (c) is due within 10 days of the date a special election report is due. The Commission shall notify all appropriate committees of reports so waived.

(i) Committees should retain proof of mailing or other means of transmittal of the reports to the Commission.

(j) *24-hour statements of electioneering communications.* Every person who has made a disbursement or who has executed a contract to make a disbursement for the direct costs of producing or airing electioneering communications as defined in 11 CFR 100.29 aggregating in excess of \$10,000 during any calendar year shall file a statement with the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the day following the disclosure date. The statement shall be filed under penalty of perjury and in accordance with 11 CFR 104.20.

[45 FR 15108, Mar. 7, 1980, as amended at 61 FR 3549, Feb. 1, 1996; 65 FR 31794, May 19, 2000; 65 FR 38423, June 21, 2000; 67 FR 12839, Mar. 20, 2002; 68 FR 418, Jan. 3, 2003; 68 FR 47414, Aug. 8, 2003; 69 FR 68238, Nov. 24, 2004; 70 FR 13091, Mar. 18, 2005]

§ 104.6 Form and content of internal communications reports (2 U.S.C. 431(9)(B)(iii)).

(a) *Form.* Every membership organization or corporation which makes disbursements for communications pursuant to 11 CFR 100.134(a) and 114.3 shall report to the Commission on FEC Form 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed \$2,000 for any election.

(1) For the purposes of 11 CFR 104.6(a), *election* means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for federal office, wherever and whenever held; the second process is comprised of all general elections for federal office, wherever and whenever held.

(2) The term election shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(b) *Filing dates.* Organizations required to report under 11 CFR 104.6(a) shall file such reports during a calendar year in which a regularly scheduled general election is held. Such reports shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and, with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i). The organization shall be required to file reports beginning with the first reporting period during which the aggregate cost for such communications exceeds \$2,000 per election as defined in 11 CFR 104.6(a)(1), and for each quarter thereafter in which the organization makes additional disbursements in connection with the same election.

(c) Each report filed under 11 CFR 104.6 shall include, for each communication:

(1) The type of communication (such as direct mail, telephone or telegram);

(2) The date(s) of the communication;

(3) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election;

(4) Whether the communication was in support of or in opposition to, a particular candidate; and

(5) The cost of the communication.

[45 FR 15108, Mar. 7, 1980, as amended at 67 FR 78680, Dec. 26, 2002]

§ 104.7 Best efforts (2 U.S.C. 432(i)).

(a) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any