

Federal Election Commission

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§ 111.41 To whom should the civil money penalty payment be made payable?

Payment of civil money penalties shall be made in the form of a check or money order made payable to the Federal Election Commission.

§ 111.42 Will the enforcement file be made available to the public?

- (a) Yes; the Commission shall make the enforcement file available to the public.
- (b) If neither the Commission nor the respondent commences a civil action, the Commission shall make the enforcement file available to the public pursuant to 11 CFR 4.4(a)(3).
- (c) If a civil action is commenced, the Commission shall make the enforcement file available pursuant to 11 CFR 111.20(c).

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and

pre-election reports under 11 CFR 104.5, shall be calculated as follows:

- (1) For reports due before April 16, 2003:
 - (i) *Level of activity* means the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(1)(ii) of this section.
 - (ii) *Estimated level of activity* means total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.
 - (iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–24,999.99 ^a	[\$100 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	+\$900 × [1 + (.25 × Number of previous violations)]
\$25,000–49,999.99	[\$200 + (\$50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1800 × [1 + (.25 × Number of previous violations)]
\$50,000–74,999.99	[\$300 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2700 × [1 + (.25 × Number of previous violations)]
\$75,000–99,999.99	[\$400 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3500 × [1 + (.25 × Number of previous violations)]
\$100,000–149,999.99	[\$600 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4500 × [1 + (.25 × Number of previous violations)]
\$150,000–199,999.99	[\$800 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5500 × [1 + (.25 × Number of previous violations)]
\$200,000–249,999.99	[\$1,000 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6500 × [1 + (.25 × Number of previous violations)]
\$250,000–349,999.99	[\$1500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8000 × [1 + (.25 × Number of previous violations)]
\$350,000–449,999.99	[\$2000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)]
\$450,000–549,999.99	[\$2500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9500 × [1 + (.25 × Number of previous violations)]
\$550,000–649,999.99	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)]
\$650,000–749,999.99	[\$3500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,500 × [1 + (.25 × Number of previous violations)]
\$750,000–849,999.99	[\$4000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)]
\$850,000–949,999.99	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,500 × [1 + (.25 × Number of previous violations)]
\$950,000 or over	[\$5000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)]

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(2) For reports due on or after April 16, 2003:

(i) *Level of activity* means:

(A) For an authorized committee, the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(2)(ii)(A) of this section.

(B) For an unauthorized committee, the total amount of receipts and disbursements for the period covered by the late report minus the total of: transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X and disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(2)(ii)(B) of this section.

(ii) *Estimated level of activity* means:

(A) For an authorized committee, total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity for an authorized committee means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports

filed covering the activity in the prior two-year election cycle.

(B)(1) For an unauthorized committee, estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the current two-year cycle)—(Transfers received from non-Federal account(s) as reported on either Line 18(a) of FEC Form 3X or Line 18 of FEC Form 3X if before March 1, 2003 + Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] ÷ Number of reports filed to date covering the activity in the current two-year election cycle.

(2) If the unauthorized committee has not filed a report covering activity in the current two-year election cycle, the estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the prior two-year election cycle)—(Transfers received from non-Federal account(s) as reported on either Line 18(a) of FEC Form 3X or Line 18 of FEC Form 3X if before March 1, 2003 + Disbursements for the non-Federal Share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] ÷ Number of reports filed covering the activity in the prior two-year election cycle.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 ^a	[\$25 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$250 × [1 + (.25 × Number of previous violations)]
\$5,000–9,999.99	[\$50 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$300 × [1 + (.25 × Number of previous violations)]
\$10,000–24,999.99	[\$100 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$500 × [1 + (.25 × Number of previous violations)]
\$25,000–49,999.99	[\$200 + (\$20 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$900 × [1 + (.25 × Number of previous violations)]
\$50,000–74,999.99	[\$300 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2700 × [1 + (.25 × Number of previous violations)]
\$75,000–99,999.99	[\$400 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3500 × [1 + (.25 × Number of previous violations)]
\$100,000–149,999.99	[\$600 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4500 × [1 + (.25 × Number of previous violations)]
\$150,000–199,999.99	[\$800 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5500 × [1 + (.25 × Number of previous violations)]
\$200,000–249,999.99	[\$1,000 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6500 × [1 + (.25 × Number of previous violations)]
\$250,000–349,999.99	[\$1500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8000 × [1 + (.25 × Number of previous violations)]

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If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$350,000–449,999.99	[\$2000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)]
\$450,000–549,999.99	[\$2500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9500 × [1 + (.25 × Number of previous violations)]
\$550,000–649,999.99	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)]
\$650,000–749,999.99	[\$3500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,500 × [1 + (.25 × Number of previous violations)]
\$750,000–849,999.99	[\$4000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)]
\$850,000–949,999.00	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,500 × [1 + (.25 × Number of previous violations)]
\$950,000 or over	[\$5000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)]

^aThe civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated as follows:

(1) For reports due before April 16, 2003:

(i) *Level of activity* has the same meaning as paragraph (a)(1)(i) of this section.

(ii) *Estimated level of activity* has the same meaning as paragraph (a)(1)(ii) of this section.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–24,999.99 ^a	[\$150 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1000 × [1 + (.25 × Number of previous violations)]
\$25,000–49,999.99	[\$300 + (\$50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2000 × [1 + (.25 × Number of previous violations)]
\$50,000–74,999.99	[\$450 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3000 × [1 + (.25 × Number of previous violations)]
\$75,000–99,999.99	[\$600 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4000 × [1 + (.25 × Number of previous violations)]
\$100,000–149,999.99	[\$900 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5000 × [1 + (.25 × Number of previous violations)]
\$150,000–199,999.99	[\$1200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6000 × [1 + (.25 × Number of previous violations)]
\$200,000–249,999.99	[\$1500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7500 × [1 + (.25 × Number of previous violations)]
\$250,000–349,999.99	[\$2250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)]
\$350,000–449,999.99	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)]
\$450,000–549,999.99	[\$3750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)]
\$550,000–649,999.99	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)]
\$650,000–749,999.99	[\$5250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)]
\$750,000–849,999.99	[\$6000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,000 × [1 + (.25 × Number of previous violations)]
\$850,000–949,999.99	[\$6750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,000 × [1 + (.25 × Number of previous violations)]
\$950,000 or over	[\$7500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,000 × [1 + (.25 × Number of previous violations)]

^aThe civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

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(2) For reports due on or after April 16, 2003:

(i) Level of activity has the same meaning as paragraph (a)(2)(i) of this section.

(ii) *Estimated level of activity* has the same meaning as paragraph (a)(2)(ii) of this section.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99 ^a	[\$50 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$500 × [1 + (.25 × Number of previous violations)].
\$5,000–\$9,999.99	[\$100 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$600 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$150 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$900 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$300 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1,400 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$450 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3000 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$600 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4000 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$900 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5000 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$1200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6000 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7500 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$2250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$3750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$5250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$6000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,000 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99	[\$6750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,000 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$7500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,000 × [1 + (.25 × Number of previous violations)].

^aThe civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$5,500.

(d) *Definitions.* For this section only, the following definitions will apply:

Election Sensitive Reports means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for pri-

mary, general, and special elections under 11 CFR 104.5.

Number of previous violations mean all prior final civil money penalties assessed under this subpart during the current two-year election cycle and the prior two-year election cycle.

(e) For purposes of the schedules of penalties in paragraphs (a) and (b) of this section,

(1) Reports that are not election sensitive reports are considered to be filed late if they are filed after their due dates but within thirty (30) days of their due dates. These reports are considered to be not filed if they are filed after thirty (30) days of their due dates or not filed at all.

(2) Election sensitive reports are considered to be filed late if they are filed

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after their due dates but prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports, or prior to four (4) days before the general election for all other election sensitive reports. These reports are considered to be not filed if they are not filed prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports or prior to four (4) days before the general election for all other election sensitive reports.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12577, Mar. 17, 2003; 70 FR 34636, June 15, 2005]

§ 111.44 What is the schedule of penalties for 48-hour notices that are not filed or are filed late?

(a) If the respondent fails to file timely a notice regarding contribution(s) received after the 20th day but more than 48 hours before the election as required under 2 U.S.C. 434(a)(6), the civil money penalty will be calculated as follows:

(1) Civil money penalty = \$110 + (.10 × amount of the contribution(s) not timely reported).

(2) The civil money penalty calculated in paragraph (a)(1) of this section shall be increased by twenty-five percent (25%) for each prior violation.

(b) For purposes of this section, prior violation means a civil money penalty that has been assessed against the respondent under this subpart in the current two-year election cycle or the prior two-year election cycle.

[65 FR 31794, May 19, 2000, as amended at 70 FR 34636, June 15, 2005]

§ 111.45 What actions will be taken to collect unpaid civil money penalties?

The Commission may take any and all appropriate collection actions authorized and required by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 et. seq.). The U.S. Department of the Treasury regulations at 31 CFR 285.2, 285.4, and 285.7 and the Federal Claims Collection Standards issued jointly by the Depart-

ment of Justice and the U.S. Department of the Treasury at 31 CFR parts 900 through 904 also apply.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12580, Mar. 17, 2003; 68 FR 16715, Apr. 7, 2003]

§ 111.46 How will the respondent be notified of actions taken by the Commission and the reviewing officer?

If a statement designating counsel has been filed in accordance with 11 CFR 111.23, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to designated counsel. If a statement designating counsel has not been filed, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to respondent political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

[68 FR 12580, Mar. 17, 2003]

PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)

Sec.

112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

112.2 Public availability of requests (2 U.S.C. 437f(d)).

112.3 Written comments on requests (2 U.S.C. 437f(d)).

112.4 Issuance of advisory opinions (2 U.S.C. 437f (a) and (b)).

112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).

112.6 Reconsideration of advisory opinions.

AUTHORITY: 2 U.S.C. 437f, 438(a)(8).

SOURCE: 45 FR 15123, Mar. 7, 1980, unless otherwise noted.

§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent