



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2002 AUG -1 A 8: 35

AGENDA ITEM

For Meeting of: 8-1-02

MEMORANDUM FOR THE COMMISSION

SUBMITTED LATE

FROM: CHAIRMAN DAVID M. MASON 

DATE: JULY 31, 2002

**SUBJECT: PROPOSED AMENDMENTS TO THE EXCLUSIONS FROM THE
DEFINITION OF ELECTIONEERING COMMUNICATIONS IN
PROPOSED 11 CFR 100.29(C)(3)**

Page 18, line 12 through Page 19, line 19 would read as follows:

In this regard, the Commission is proposing two alternatives. One interpretation put forward by the Commission would be that any disbursement of funds for a communication that constitutes an expenditure or an independent expenditure under FECA is not an electioneering communication. In addition, any expenditure of a Federal political committee would remain subject to FECA's reporting requirements. 2 U.S.C. 434(b)(4)(A). Thus, Federal political committees would not be required to file an additional electioneering communication report for expenditures for communications that otherwise meet the definition of electioneering communication. Consequently, the segregated bank account provisions of 2 U.S.C. 434(f)(2)(E) would not apply to expenditures either.

It can be argued that FECA adequately addresses expenditures, independent expenditures and Federal political committee outlays, and BCRA's Title II was intended

to address disbursements that are not subject to FECA's treatment of such expenditures. Similarly, the exclusion may represent an effort to avoid duplicative reporting requirements. To include communications that are expenditures and independent expenditures would subject such communications to duplicative and often conflicting reporting requirements.

The Commission also seeks comment on whether to limit the exclusion to candidate-specific expenditures reportable as independent expenditures, in-kind contributions or a party coordinated expenditure by non-authorized Federal political committees. This would subject non-authorized Federal political committees making non-coordinated non-express advocacy communications to duplicative reporting requirements. In addition, the Commission notes that all expenditures of authorized committees are, by definition, for the purpose of influencing the candidate's election to Federal office. For this reason, the Commission is seeking comment on excepting from the definition of electioneering communication expenditures for any public communication made by a Federal candidate or officeholder's authorized campaign committee.

Page 55, lines 8-10 would read as follows:

Alternative 1-A: (3) Constitutes an expenditure or an independent expenditure.

Alternative 1-B: (3) Constitutes a candidate-specific expenditure reportable as an in-kind contribution or party coordinated expenditure, or an independent expenditure.