



FEDERAL ELECTION COMMISSION
Washington, DC 20463

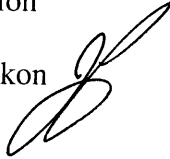
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September 27, 2004


MEMORANDUM


TO: The Commission

THROUGH: James A. Pehrkon 
Staff Director

FROM: Lawrence H. Norton 
General Counsel

Rosemary C. Smith 
Associate General Counsel

Brad C. Deutsch 
Assistant General Counsel

Esa L. Sferra 
Attorney

SUBJECT: Final Rules on Inaugural Committees.

AGENDA ITEM
For Meeting of: 9-30-04

SUBMITTED LATE

On April 7, 2004 the Commission published a Notice of Proposed Rulemaking ("NPRM") entitled "Inaugural Committee Reporting and Prohibition on Accepting Foreign National Donations." That NPRM addressed the new disclosure requirements for inaugural committees and the new ban on donations from foreign nationals. See 69 Fed. Register 18301 (April 7, 2004). After reviewing the comments and considering the issues presented in the NPRM, the Office of the General Counsel has prepared the attached Final Rules and Explanation and Justification for Commission consideration.

Recommendation:

The Office of the General Counsel recommends that the Commission approve the attached Final Rules and Explanation and Justification for publication in the *Federal Register* and transmittal to Congress.

Attachment

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Part 110**

3 **[NOTICE 2004 – >>]**

4 **Presidential Inaugural Committee Reporting and**
5 **Prohibition on Accepting Donations from Foreign Nationals**

6 **AGENCY:** Federal Election Commission.

7 **ACTION:** Final rules and transmittal of regulations to Congress.

8 **SUMMARY:** The Federal Election Commission is promulgating new rules regarding
9 disclosure requirements for Presidential inaugural committees. The
10 new rules also ban inaugural committees from accepting donations
11 from foreign nationals. These regulations implement requirements of
12 the Bipartisan Campaign Reform Act of 2002. Further information is
13 provided in the Supplementary Information that follows.

14 **EFFECTIVE DATE:** [Insert date thirty days after date of publication in the FEDERAL
15 REGISTER].

16 **FOR FURTHER**
17 **INFORMATION**

18 **CONTACT:** Mr. Brad C. Deutsch, Assistant General Counsel, or Ms. Esa L. Sferra,
19 Attorney, 999 E Street, NW, Washington, D.C. 20463, (202) 694-1650
20 or (800) 424-9530.

21 **SUPPLEMENTARY**
22 **INFORMATION:**

23 Section 308 of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107-
24 1555, 116 Stat. 81 (March 27, 2002), amended 36 U.S.C. 510 by establishing new requirements
25 for Presidential inaugural committees regarding reporting and acceptance of certain donations.

1 The Commission is issuing these final rules to implement these new requirements for inaugural
2 committees.

3 The Presidential inaugural committee is appointed by the President-elect to be in charge
4 of the Presidential inaugural ceremony and the functions and activities connected with the
5 ceremony. 36 U.S.C. 501(1). The inaugural committee plans and finances all inaugural events,
6 other than the swearing-in ceremony at the Capitol and the luncheon honoring the President and
7 Vice-President,¹ including opening ceremonies, the parade, galas, and balls. The inaugural
8 committee also receives special privileges in the District of Columbia beginning five days before
9 and ending four days after the inaugural ceremony. Chapter 5 of title 36 of the United States
10 Code authorizes Congress to make appropriations for the inauguration, however, the
11 appropriations are limited to funding for the District of Columbia to pay for the costs of
12 municipal services associated with the inaugural events. Accordingly, the inaugural committee
13 accepts donations to cover the costs associated with all other inaugural events.

14 BCRA section 308 amended 36 U.S.C. 510 to require the inaugural committee to
15 disclose, in a report filed with the Commission within 90 days after the inaugural ceremony,
16 certain donations made to the inaugural committee, and to ban the inaugural committee from
17 accepting donations from foreign nationals. Accordingly, the Commission is adding new 11
18 CFR 104.21 to its reporting rules, in 11 CFR part 104, to set forth inaugural committee reporting
19 requirements. The Commission is also adding to the rules regarding foreign nationals at 11 CFR
20 110.20 a new paragraph banning both the acceptance by inaugural committees of donations from
21 foreign nationals, as well as the making of such donations.

¹ The Joint Congressional Committee on Inaugural Ceremonies, which is formed by a Congressional resolution every four years, several months in advance of the Presidential election, plans and finances the Presidential inaugural events held at the Capitol, including the swearing-in ceremony and the Congressional luncheon to honor the President and Vice-President.

1 Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional
2 Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the
3 Speaker of the House of Representatives and the President of the Senate and publish them in the
4 Federal Register at least 30 calendar days before they take effect. The final rules on inaugural
5 committees were transmitted to Congress on MONTH, >>, 2004.

6 **Explanation and Justification**

7 On April 7, 2004, the Commission published a Notice of Proposed Rulemaking
8 (“NPRM”) in the Federal Register containing proposed rules to BCRA’s amendment to 36
9 U.S.C. 510 that requires disclosure of certain donations to Presidential inaugural committees and
10 bans the acceptance of donations from foreign nationals by Presidential inaugural committees.
11 69 Fed. Register 18301 (April 7, 2004). The Commission sought comments on several issues
12 raised in the NPRM and on the proposed rules in general. The comment period ended May 7,
13 2004. The Commission received three comments, two from individuals and a letter from the
14 Internal Revenue Service. The Internal Revenue Service letter indicated that it had “no
15 comments.”

16 **I. 11 CFR 104.21 Reporting by inaugural committees**

17 BCRA section 308 sets forth for the first time a reporting scheme for inaugural
18 committees. Paragraph (a) of new 11 CFR 104.21 defines the terms “inaugural committee” and
19 “donation.” Paragraph (b) sets forth the initial letter-filing for inaugural committees. Paragraph
20 (c) contains reporting requirements. Paragraph (d) sets forth recordkeeping requirements similar
21 to the Commission’s regulations for other persons who file reports with the Commission.

22

1 1. 11 CFR 104.21(a) – Definitions

2 Paragraph (a)(1) of 11 CFR 104.21 defines “inaugural committee.” The definition is
3 identical to that found in 36 U.S.C. 501(1) and in the municipal regulations of the District of
4 Columbia (see D.C. Mun. Regs., tit. 24, section 899).² The definition states that an “inaugural
5 committee” is the committee appointed by the President-elect to be in charge of the Presidential
6 inaugural ceremony, and functions and activities connected with the ceremony. This definition
7 presumes that only one inaugural committee will be named by the President-elect every four-
8 years.

9 Paragraph (a)(2) of 11 CFR 104.21 defines “donation” by reference to the existing
10 definition of “donation” in 11 CFR 300.2(e). The NPRM proposed a definition of “donation”
11 that was similar to 11 CFR 300.2(e), but applied only to inaugural committees. The Commission
12 received no comments on this definition of donation. The Commission has decided to define
13 “donation” in the final rules by simply referring to the existing definition in section 300.2(e),
14 rather than creating a separate, and potentially confusing definition applicable only to inaugural
15 committees.

16 2. 11 CFR 104.21(b) – Initial letter-filing by inaugural committees

17 New 11 CFR 104.21(b) sets forth the steps necessary for a committee appointed by the
18 President-elect to be considered the inaugural committee. BCRA section 308 expressly provides
19 that a committee must “agree to” abide by the applicable reporting requirements and the ban on
20 acceptance of donations from foreign nationals in order to be considered the inaugural
21 committee. 36 U.S.C. 510(a). The Commission interprets this statutory language to require an
22 affirmative act on the part of the committee wishing to be recognized as the official inaugural

² The District of Columbia has statutory authority to regulate many aspects of the activities of the inaugural committee, such as the inaugural parade route, public safety at inaugural events, and concession sales at inaugural events. See 36 U.S.C. 502, 503, and 505.

1 committee. Therefore, inaugural committees must file a signed letter with the Commission
2 stating that the committee agrees to abide by the requirements applicable to inaugural
3 committees. In the letter, an inaugural committee must designate a person as its point of contact
4 with the Commission.

5 The Commission sought comment on whether such a letter-filing is necessary and
6 received no comments. The Commission also sought comments on whether a new FEC form is
7 preferable to a letter-filing, and whether an inaugural committee should be free to designate a
8 person other than its chairperson or other officer as a point of contact with the Commission. One
9 commenter stated that a letter-filing is preferable because it reduces paperwork. The
10 Commission agrees that a letter-filing satisfies the conditions set forth in BCRA's statutory
11 language and that a new FEC form is unnecessary. The Commission concludes that the
12 chairperson or any other officer is an appropriate person to serve as an inaugural committee's
13 point of contact because such person is involved in the administration of the committee. The
14 new rule provides flexibility for an inaugural committee to appoint whichever officer might be
15 the most knowledgeable about matters relevant to FEC filing requirements and interactions.

16 Accordingly, the new rule requires an inaugural committee to file a letter with the
17 Commission within 15 days of being appointed by the President-elect. Fifteen days is the same
18 amount of time as the President-elect had to designate a principal campaign committee after
19 becoming a candidate. See 2 U.S.C. 432(e)(1) and 11 CFR 102.12(a). The letter-filing must
20 contain the name and address of the inaugural committee, the name of its chairperson or other
21 officer who will serve as the point of contact for the Commission, and a statement indicating that
22 the inaugural committee will comply with the reporting and recordkeeping requirements in 11
23 CFR 104.21(c) and (d) and the ban on accepting donations from foreign nationals in 11 CFR

1 110.20(j). The letter must be signed by an official of the inaugural committee with authority to
2 make the required statement regarding compliance with Commission regulations.

3 Additionally, new paragraph (b) sets forth procedures for the assignment of a FEC
4 committee identification number (“FECID”) upon receipt by the Commission of an inaugural
5 committee’s letter-filing, and sets forth the requirement that the inaugural committee must
6 include the FECID in any subsequent communications or filings with the Commission. This
7 additional language mirrors the language of 11 CFR 102.3(c), which contains similar procedures
8 and requirements for political committees, and will help the Commission track and organize
9 information provided by inaugural committees for public use.

10 3. 11 CFR 104.21(c) – Reporting requirements for inaugural committees

11 New 11 CFR 104.21(c) sets forth the inaugural committee reporting requirements that
12 satisfy the disclosure provisions contained in BCRA section 308. To facilitate inaugural
13 committee reporting, the Commission is creating a new form, FEC Form 13, which inaugural
14 committees must use to file its report containing the required information regarding donations to
15 the committee.

16 New paragraph (c)(1) requires the chairperson or other officer identified in the letter-
17 filing required by paragraph (b) of 11 CFR 104.21 to be responsible for signing (or, in the case of
18 electronic filing, verifying) and filing the report. The Commission sought comment on the
19 signature requirement and received no comments. Although BCRA section 308 does not
20 explicitly require a signature on the report, FECA requires that the Commission “provide
21 methods . . . for verifying designations, statements, and reports” 2 U.S.C. 434(a)(11)(C).
22 Additionally, the Commission’s reporting regulations provide generally that “[e]ach individual
23 having the responsibility to file a designation, report or statement . . . shall sign the original

1 designation, report or statement,” unless it is electronically filed. 11 CFR 104.14(a).
2 Accordingly, the Commission requires a signature on (or, in the case of electronic filing, a
3 verification for) each FEC Form 13 in accordance with 11 CFR 104.14(a). The signature on (or
4 verification of) the filing signifies that the inaugural committee’s report, or any supplement
5 thereto, is complete and correct as of the date of the filing.

6 New paragraph (c)(2) implements the statutory requirement that an inaugural committee
7 must file a report with the Commission no later than 90 days after the date of the inaugural
8 ceremony. In keeping with other reporting deadlines in Commission regulations, the new rule
9 requires that the report be received by the Commission by 11:59 p.m. Eastern Standard/Daylight
10 Time on the 90th day after the date of the inaugural ceremony. See generally, 11 CFR
11 100.19(b).

12 Additionally, because BCRA requires an inaugural committee to disclose “any donation
13 of money or anything of value made to the committee in an aggregate amount equal to or greater
14 than \$200,” 2 U.S.C. 510(b)(1) (emphasis added), the Commission has modified paragraph (c)(2)
15 from the paragraph proposed in the NPRM to clarify that an inaugural committee must file
16 supplements, as necessary, to ensure that it discloses each reportable donation, regardless of
17 when the inaugural committee accepts such a donation. Accordingly, an inaugural committee
18 must file a supplement with the Commission within 90 days of the date of the committee’s last
19 filing, of either its report or its most recent supplement. If an inaugural committee does not
20 accept any reportable donations, or make any refunds, within 90 days of the end of the “covering
21 period” of its last filing, as discussed below, then it does not need to file a supplement.
22 However, if an inaugural committee accepts a reportable donation, or makes a refund, at any

1 point thereafter, the committee must then file a supplement reporting such donation or refund
2 within 90 days of accepting the donation or making the refund.

3 New paragraph (c)(3) states that all letters, reports, and amendments filed by inaugural
4 committees must be filed with the Commission.

5 New paragraph (c)(4) sets forth the methods by which an inaugural committee may file
6 its report and supplements. The Commission received no comments on whether inaugural
7 committees should be required to file electronically. The Commission has concluded that
8 inaugural committees are not subject to the Commission's mandatory electronic filing
9 requirements because these requirements apply only if a person receives or makes, or has reason
10 to expect to receive or make, in excess of \$50,000 in contributions or expenditures in a calendar
11 year. 11 CFR 104.18(a)(1). The funds accepted by an inaugural committee are donations, not
12 contributions or expenditures, and therefore are not subject to mandatory electronic filing.
13 Although, the final rules do not make inaugural committees subject to the Commission's
14 mandatory electronic filing requirements, they do permit inaugural committees to use the
15 Commission's electronic filing system on a voluntary basis under 11 CFR 104.18(b).
16 Accordingly, inaugural committee may file their reports either on paper or electronically.

17 New paragraph (c)(5) requires an inaugural committee to file its report using new FEC
18 Form 13.

19 New paragraph (c)(6) sets forth the information inaugural committees must disclose in
20 their reports. Inaugural committees must report all donations accepted by them that aggregate
21 \$200 or more. 36 U.S.C. 510(b)(1). The statute also requires disclosure of (1) the name and
22 address of each person making donations that aggregate \$200 or more; (2) the amount of each
23 such donation; and (3) the date that each such accepted donation was received. 36 U.S.C.

1 510(b)(2).³ Accordingly, the Commission is requiring the itemization of each accepted donation
2 of \$200 or more, and each accepted donation, regardless of amount, from a person whose total
3 donations equal or exceed \$200. The Commission notes that donations include entire amount
4 paid for any ticket for an inaugural event, whether paid to the inaugural committee, or an agent
5 thereof, such as a vendor hired by a committee.⁴

6 Under paragraph (c)(6), for each person (as defined in 11 CFR 100.10) making a
7 reportable donation, an inaugural committee must report on Schedule A of FEC Form 13 the
8 person's full name and mailing address, and the date of receipt and amount of each donation. In
9 the case of an individual making a donation, "full name" means the individual's first name,
10 middle name or initial, if available, and last name. In the case of all other persons, "full name"
11 means the entity's full legal name. See, e.g., 11 CFR 100.12. This disclosure requirement for
12 inaugural committees is similar to the requirements applicable to political committees under 11
13 CFR 104.3(a)(4)(i).

14 To ensure accurate reporting, and to provide inaugural committees with a means to show
15 compliance with the ban on acceptance of donations from foreign nationals, the Commission is
16 requiring inaugural committees also to report refunds. Thus an inaugural committee must
17 itemize each refund of a previously, or contemporaneously, reported donation.

18 Additionally, to enhance disclosure, inaugural committees must report aggregated
19 information for all reported donations and refunds, which provides the public with information
20 about an inaugural committee's total reportable activity from its appointment through the date
21 covered in its most recent filing. Specifically, an inaugural committee must report a cumulative

³ Although an inaugural committee is required only to report donations that have been accepted (i.e., donations deposited into a committee's account), the statute requires that the committee report "the date the donation is received," which may be different from the date the donation is accepted. 36 U.S.C. 510(b)(1)(B) (emphasis added).

⁴ This approach is consistent with Commission regulations in 11 CFR 100.53 that indicate that the entire amount paid to attend a political committee fundraiser or political event is a contribution.

1 total of itemized donations, a cumulative total of itemized refunds, and a cumulative calculation
2 of net donations, which is a calculation of total itemized donations minus total itemized refunds.
3 This reporting requirement is similar to Commission regulations at 11 CFR 104.3(a), which
4 requires political committees to disclose total contributions and total refunds.

5 Under paragraph (c)(6), an inaugural committee's report must itemize all reportable
6 donations accepted and all refunds made from the date of its appointment by the President-elect
7 through a date chosen by the inaugural committee that is within 15 days of the date the
8 committee files its report. This "covering period" is included in the final rule to provide an
9 inaugural committee with the flexibility of choosing a close-of-books date and a 15-day window
10 during which it can prepare and finalize its report. Under this paragraph, supplements to a report
11 also have a "covering period," which starts on the day after the end of the covering period of the
12 most recent filing and ends on a date, again chosen by the inaugural committee, that is within 15
13 days of the date the committee files any such supplement.

14 Inaugural committees must report the above information on Form 13, which consists of a
15 Summary Page and Schedules A and B. The Summary Page provides a cumulative summary of
16 the committee's total reportable activity from its appointment through the end of the covering
17 period of the filing. An inaugural committee must provide on the Summary Page cumulative
18 totals for (1) itemized donations, (2) itemized refunds, and (3) net donations (*i.e.* itemized
19 donations minus any refunds). Schedules A and B of Form 13 provides detailed information
20 about the committee's reportable activity during the covering period of the filing. An inaugural
21 committee must itemize on Schedule A each previously unreported donation of \$200 or more, as
22 well as any donation from a person whose donations total \$200 or more, and must itemize on
23 Schedule B each refund of a previously, or contemporaneously, reported donation.

1 Additionally, an inaugural committee must designate on the Summary Page whether a
2 filing constitutes its report or a supplement to its report, or an amendment correcting information
3 in a previous filing.

4 Accordingly, paragraph (c)(6) states that each report, and any supplement thereto, filed
5 by an inaugural committee must list (1) the “covering period” (2) a cumulative summary of
6 reported donations, refunds, and net donations, (3) an itemization of previously unreported
7 donations that are \$200 or more, and donations, regardless of amount, from a person whose
8 donations aggregate \$200 or more, and (4) an itemization of previously unreported refunds of all
9 previously, or contemporaneously, reported donations.

10 Lastly, the Commission notes that neither BCRA nor the Commission’s new reporting
11 rules contemplate disclosure of disbursements by inaugural committees.

12 4. 11 CFR 104.21(d) – Recordkeeping

13 New 11 CFR 104.21(d) requires an inaugural committee to maintain records in
14 accordance with the Commission recordkeeping requirements in 11 CFR 104.14. The
15 Commission sought comments on whether inaugural committees should be subject to
16 recordkeeping requirements, and, if so, whether they should be required to comply with the
17 Commission’s established recordkeeping regulations for political committees, see 11 CFR
18 104.14(b), or a different set of rules specifically created for inaugural committees. No
19 commenters addressed this topic. The Commission concludes that an inaugural committee must
20 maintain records that relate to any reportable donations in accordance with 11 CFR 104.14.

1 **II. 11 CFR 110.20 Prohibition on contributions, donations, expenditures, independent**
2 **expenditures, and disbursements by foreign nationals**

3 1. 11 CFR 110.20(j) – Donations by foreign nationals to inaugural committees

4 BCRA section 308 prohibits an inaugural committee from accepting foreign national
5 donations. 36 U.S.C. 510(c). Accordingly, the Commission is promulgating new paragraph (j)
6 of 11 CFR 110.20 to implement this prohibition.

7 The NPRM proposed prohibiting the solicitation and receipt, in addition to the
8 acceptance, of foreign national donations by inaugural committees. In order to more closely
9 track the statute, which prohibits only acceptance of foreign national donations, the final rules do
10 not prohibit inaugural committees from soliciting or receiving these donations. The Commission
11 received no comments on the proposed prohibition of such activity; however, one commenter
12 agreed generally with a ban on foreign national donations.

13 Additionally, although BCRA section 308 does not expressly include a “knowingly”
14 standard for inaugural committees’ acceptance of donations from foreign nationals, the
15 Commission has previously read a “knowingly” standard into other statutory provisions banning
16 acceptance of foreign national contributions and donations by other persons. See 11 CFR
17 110.20(g); Final Rule and Explanation and Justification, “Contribution Limits and Prohibitions,”
18 67 Fed. Register 69928, 69940 (November 19, 2002). In promulgating those rules banning
19 contributions from foreign nationals, the Commission determined that “a knowledge requirement
20 may produce a less harsh result” based on the Commission’s prior enforcement experience with
21 the frequent involvement of volunteers in the solicitation and receipt of contributions and
22 donations. Id. at 69941. Therefore, to provide inaugural committees with the same protection,

1 the new paragraph (j) prohibits only knowing acceptance of a donation from a foreign national.
2 “Knowingly” is defined in 11 CFR 110.20(a).

3 Although BCRA section 308 does not explicitly forbid foreign nationals from making
4 donations to an inaugural committee, the Commission also sought comment on whether a
5 prohibition on the direct or indirect making of donations by foreign nationals is a permissible
6 interpretation of BCRA section 308, as a necessary implication of the prohibition on the
7 acceptance of such donations by inaugural committees. The Commission received no comments.

8 Consistent with the structure of current section 110.20, which implements BCRA’s other
9 prohibitions on foreign national money and other things of value, the Commission has
10 determined that in order to effectuate BCRA’s ban on acceptance of donations from foreign
11 nationals, it is also necessary to impose a ban on the direct or indirect making of donations by
12 foreign nationals to an inaugural committee. Therefore, the final rule at 11 CFR 110.20(j)
13 prohibits both the acceptance of a donation from a foreign national by an inaugural committee, as
14 well as the making of such a donation by a foreign national.

15 **III. Enforcement Authority**

16 BCRA established the Commission’s responsibility to “promulgate regulations to carry
17 out [BCRA] and the amendments made by [BCRA].” BCRA section 402(c). In the NPRM, the
18 Commission sought comment on whether it specifically has authority to enforce new rules
19 pertaining to inaugural committees, including the authority to audit inaugural committees, or
20 whether the Commission’s authority is limited to receiving the reports required by BCRA section
21 308 and making them available to the public. One commenter questioned the Commission’s
22 enforcement authority.

1 Although BCRA does not explicitly charge the Commission, or any other agency or
2 entity, with enforcement of the amendment made to 36 U.S.C. chapter 5, the Commission has the
3 responsibility to promulgate rules to implement the amendment and, as part of this authority,
4 may fill in gaps left by Congress. See Railway Labor Executives' Ass'n v. Nat'l Mediation Bd.,
5 29 F.3d 655, 669 (D.C. Cir. 1994) (“Agencies owe their capacity to act to the delegation of
6 authority, either express or implied, from the legislature.”); see also Chevron v. Natural
7 Resources Defense Council, Inc., 467 U.S. 837, 844 (1984) (“The power of an administrative
8 agency to administer a congressionally created . . . program necessarily requires the formulation
9 of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.”).
10 Therefore, the Commission concludes that it has implied enforcement authority because the
11 authority to promulgate Commission rules necessarily implies the authority to enforce those
12 rules. Enforcement authority with regard to foreign national donations to inaugural committees,
13 and reporting by inaugural committees is fully consistent with the Commission’s enforcement
14 authority as to other foreign national donations and reporting by political committees.

15 The Commission notes that the Mayor of the District of Columbia is charged with general
16 enforcement of chapter 5 of title 36 of the United States Code, and must “take necessary
17 precautions to protect the public, and ensure that the pavement of any street, sidewalk, avenue, or
18 alley disturbed or damaged is restored to its prior condition.” 36 U.S.C. 508. The District of
19 Columbia’s enforcement powers under chapter 5, however, are limited to authority over the
20 infrastructure necessary for the inaugural events and the public safety during the events. In
21 addition, the District of Columbia’s rules to implement this chapter “are effective only during the
22 inaugural period,” 36 U.S.C. 506, which begins five calendar days before the inauguration and
23 ends four calendar days after the inauguration, 36 U.S.C. 501(2). Therefore, the scope of the

1 District of Columbia's authority with respect to the inauguration does not extend beyond four
2 days after the inauguration and would not cover the 90 day period after the inauguration within
3 which an inaugural committee must file its report with the Commission.

4 The District of Columbia's Inaugural Committee (the "DCIC"), a committee made up of
5 representatives from the District's permit granting agencies, is charged with regulating the
6 activities of the Presidential inauguration and the activities of the inaugural committee pertaining
7 to public safety for the Presidential inauguration. The Commission has confirmed, through
8 communications with the chairperson of the DCIC, that the DCIC is aware of the new
9 requirements of these final rules, including the letter-filing requirement under new 11 CFR
10 104.21(b) that is a precondition to the inaugural committee receiving any necessary permits from
11 the DCIC. Moreover, the chairperson of the DCIC has indicated that the DCIC considers the
12 enforcement of provisions of 36 U.S.C. 510 not pertaining to public safety and inaugural
13 committee events in the District of Columbia to be the Commission's responsibility.

1 **Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)**

2 The attached rules will not have a significant economic impact on a substantial number of
3 small entities. The basis of this certification is that these rules affect only inaugural committees
4 appointed by the President-elect, of which there will be only one every four years. An inaugural
5 committee does not appear to be a small entity within the meaning of 5 U.S.C. 601(3)-(6). Even
6 if an inaugural committee is deemed a small entity, the new reporting rules require the filing of
7 only one letter and one report, with supplements thereto as necessary. There is no ongoing
8 reporting requirement after all donations have been reported. Therefore, any increase in the cost
9 of compliance would not impose a significant economic burden on a substantial number of small
10 entities.

11

12 **List of Subjects**

13 11 CFR Part 104

14 Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

15 11 CFR Part 110

16 Campaign funds, Political committees and parties.

1 For the reasons set forth in the preamble, the Federal Election Commission amends
2 Subchapter A of Chapter I of Title 11 of the Code of Federal Regulations as follows:

3 **PART 104 -- REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS** (2
4 **U.S.C. 434)**

5 1. The title of Part 104 is revised to read as set forth above.

6 2. The authority citation for part 104 is revised to read as follows:

7 Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8) and (b), 439a, 441a,
8 and 36 U.S.C. 510.

9 3. New section 104.21 is added to read as follows:

10 **§ 104.21 Reporting by inaugural committees.**

11 (a) Definitions.

12 (1) Inaugural committee. Inaugural committee means the committee appointed by
13 the President-elect to be in charge of the Presidential inaugural ceremony and
14 functions and activities connected with the inaugural ceremony.

15 (2) Donation. For purposes of this section, donation has the same meaning as in 11
16 CFR 300.2(e).

17 (b) Initial letter-filing by inaugural committees.

18 (1) In order to be considered the inaugural committee under 36 U.S.C. Chapter 5,
19 within 15 days of appointment by the President-elect, the appointed committee
20 must file a signed letter with the Commission containing the following:

21 (i) The name and address of the inaugural committee;

22 (ii) The name of the chairperson, or the name and title of another officer who
23 will serve as the point of contact; and

1 (iii) A statement agreeing to comply with paragraphs (c) and (d) of this section
2 and with 11 CFR 110.20(j).

3 (2) Upon receipt of the letter filed under this paragraph (b), the Commission will
4 assign a FEC committee identification number to the inaugural committee. The
5 inaugural committee must include this FEC committee identification number on
6 all reports and supplements thereto required under paragraph (c) of this section, as
7 well as on all communications with the Commission concerning the letter filed
8 under this paragraph (b).

9 (c) Reporting requirements for inaugural committees.

10 (1) Who must report. The chairperson or other officer identified in the letter-filing
11 required by paragraph (b) of this section must file a report and any supplements
12 thereto as required by this paragraph (c). Such person must sign the report and
13 any supplements thereto in accordance with 11 CFR 104.14(a). The signature on
14 the report and any supplements thereto certifies that the contents are true, correct,
15 and complete, to the best of knowledge of the chairperson or other officer
16 identified in the letter-filing required by paragraph (b) of this section.

17 (2) When to file. A report, and any supplements thereto, must be timely filed in
18 accordance with 11 CFR 100.19 as follows:

19 (i) Report. An inaugural committee must file a report with the Commission
20 no later than the 90th day following the date on which the Presidential
21 inaugural ceremony is held.

22 (ii) Supplements to the report.

1 (A) An inaugural committee must file a supplement to its report if it
2 accepts a reportable donation, or makes a refund during the 90
3 days following the end of the covering period of its original report
4 or its most recent supplement.

5 (B) Any supplement must be filed no later than the 90th day following
6 the filing date of an original report, or if a supplement has already
7 been filed, the filing date of the most recent supplement.

8 (3) Where to file. All letters, reports, and any supplements thereto, as required under
9 this section, shall be filed with the Federal Election Commission, 999 E Street,
10 N.W., Washington, DC 20463.

11 (4) How to file. An inaugural committee must file its letter, report, and any
12 supplements thereto, in original form; however, an inaugural committee may
13 choose to file its reports in an electronic format that meets the requirements of 11
14 CFR 104.18.

15 (5) Form. An inaugural committee must file the report required by this paragraph on
16 FEC Form 13.

17 (6) Content of report. Each report, and any supplements thereto, filed with the
18 Commission under this section must contain the following:

19 (i) Covering period beginning and ending dates, as follows:

20 (A) The covering period of a report means the period of time beginning
21 on the date of the inaugural committee's appointment by the
22 President-elect and ending no earlier than 15 days before the day

1 on which the inaugural committee files its report with the
2 Commission.

3 (B) The covering period of a supplement to the report means the period
4 of time beginning on the day after the ending date of the covering
5 period of the original report, or the most recent supplement thereto,
6 and ending no earlier than 15 days before the day on which the
7 inaugural committee files such supplement with the Commission.

8 (ii) Cumulative totals from the date of the inaugural committee's appointment
9 by the President-elect for all:

10 (A) Donations reported under paragraph (c)(6)(iii) of this section;

11 (B) Refunds reported under paragraph (c)(6)(iv) of this section; and

12 (C) Net reported donations;

13 (iii) Itemization of previously unreported donations of \$200 or more, and
14 donations that aggregate \$200 or more, including:

15 (A) The full name of each person who made such a donation, including
16 first name, middle name or initial, if available, and last name, in
17 the case of an individual;

18 (B) The address of each such person;

19 (C) The amount of each such donation; and

20 (D) The date of receipt of each such donation; and

21 (iv) Itemization of previously unreported refunds of previously, or
22 contemporaneously, reported donations, including:

- 1 (A) The full name of each person to whom such a refund was made,
- 2 including first name, middle name or initial, if available, and last
- 3 name, in the case of an individual;
- 4 (B) The address of each such person;
- 5 (C) The amount of each such refund; and
- 6 (D) The date of each such refund.

7 (d) Recordkeeping. All inaugural committees must maintain records in accordance with 11
8 CFR 104.14.

9 **PART 110-CONTRIBUTION AND EXPENDITURE LIMITATIONS AND**
10 **PROHIBITIONS**

11 4. The authority citation for Part 110 is revised to read as follows:
12 Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d, 441e,
13 441f, 441g, 441h, and 441k, and 36 U.S.C. 510.

14 5. The title to section 110.20 is revised and paragraph (j) is added to read as follows:
15 **§ 110.20 Prohibition on contributions, donations, expenditures, independent expenditures,**
16 **and disbursements by foreign nationals (2 U.S.C. 441e, 36 U.S.C. 510).**

17 * * * * *

18 (j) Donations by foreign nationals to inaugural committees. A foreign national shall not,
19 directly or indirectly, make a donation to an inaugural committee, as defined in 11 CFR
20 104.21(a)(1). No person shall knowingly accept from a foreign national any donation to an
21 inaugural committee.

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Bradley A. Smith
Chairman
Federal Election Commission

DATED: _____
BILLING CODE: 6715-01-U