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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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**AGENDA ITEM**

For Meeting of: 3-16-06

March 16, 2006 **SUBMITTED LATE**

MEMORANDUM

**TO:** The Commission

**FROM:** Commissioner Steven T. Walther *Steve Walther*

**SUBJECT:** Draft Explanation and Justification for Interim Final Rule on Definition of "Federal Election Activity" (11 CFR 100.24(a)(1)(iii)).

Attached please find amendments that I am considering offering on March 16, 2006 to amend Agenda Document No. 06-16, the draft Explanation and Justification for an Interim Final Rule on the Definition of "Federal Election Activity" (11 CFR 100.24(a)(1)(iii)).

1. Page 2, Line 14: Replace “municipal.election@fec.gov” with “nonfederal.election@fec.gov”
2. Page 6, Line 15: Insert the following sentence to begin at the end of line 15:

The interim final rule provides that it will not apply to activities or communications that take place after July 1, 2007. See new 11 CFR 100.24(a)(1)(iii)(B). The Commission expects to consider any public comments and may adopt a Final Rule that can be effective on or before that date.
3. Page 8, Line 6: Delete “for municipal elections”
4. Page 8, Line 7: Replace “the municipal election” with “a non-Federal election”
5. Page 11, Line 7: Insert the following sentence to begin at the end of line 7:

Finally, the interim final rule is effective for a limited duration. See new section 100.24(a)(1)(iii)(B).
6. Page 11, Line 15: Replace the citation with “11 CFR 100.24(a)(1)(iii)(A)(1) to (3).” and insert the following sentence after the revised citation:

If a non-Federal candidate is also seeking Federal office and has satisfied FECA’s definition of “candidate,” then references to that candidate would not qualify for the interim final rule.
7. Page 11, Line 16: Revise the citation to read:

“11 CFR 100.24(a)(1)(iii)(A)”
8. Page 11, Line 20: Revise the citation to read: “100.24(a)(1)(iii)(A)(1) to (3).”
9. Page 12, Line 16: Insert a new footnote signal after “municipal election,” with footnote text as follows:

References to municipal elections are exemplary only; new section 100.24(a)(1)(iii) applies to all types of non-Federal elections that are held on dates separate from dates of any Federal elections.
10. Page 12, Footnote 4: Revise the citation to read: “section 100.24(a)(1)(iii)(A)(1) through (3).”
11. Page 16, Line 7 to Page 17, Line 3: Replace the interim final rule text with the following:

§ 100.24 Federal Election Activity (2 U.S.C. 431(20)).

(a) \* \* \*

(1) \* \* \*

(iii) Voter Identification and Get-Out-the-Vote Activities Limited to Non-Federal Elections.

(A) Notwithstanding paragraphs (a)(1)(i) and (ii) of this section, in connection with an election in which a candidate for Federal office appears on the ballot does not include any activity or communication that is in connection with a non-Federal election that is held on a date separate from a date of any Federal election and that refers exclusively to:

(A1) Non-Federal candidates participating in the non-Federal election, provided the non-Federal candidates are not also Federal candidates;

(B2) Ballot referenda or initiatives scheduled for the date of the non-Federal election; or

(C3) The date, polling hours and locations of the non-Federal election.

(B) Paragraph (a)(1)(iii) of this section shall not apply to any activities or communications after July 1, 2007.

\* \* \* \* \*