



FEDERAL ELECTION COMMISSION
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2005 DEC -8 A 9:31

December 8, 2005

MEMORANDUM

AGENDA ITEM

For Meeting of: 12-08-05

SUBMITTED LATE

TO: The Commission

FROM: Commissioner Ellen L. Weintraub *ELW/MJF*

RE: Agenda Document No. 05-60
Draft Notice of Proposed Rulemaking: Coordinated Communications
(11 CFR 109.21)

I offer the following amendments to Agenda Document No. 05-60:

Page 31, Line 11: Insert:

4. Proposed clarification of "payment prong" in 11 CFR 109.21(a)(1)

The Commission seeks comment on whether "in whole or in part" should be added to 11 CFR 109.21(a)(1) of the coordinated communication rules (the "payment prong"). The amendment would clarify that the payment prong is satisfied if a person other than the candidate, the candidate's authorized committee, or political party committee, pays for only part of the costs of the communication. Under this proposed amendment, 11 CFR 109.21(a)(1) would be revised to read, "Is paid, in whole or in part, by a person other than that candidate, authorized committee, political party committee, or agent of any of the foregoing." Does this amendment best effectuate the intended clarification of the payment prong? Would this clarification alter the application of the content or conduct prongs of the coordinated communication rules? Would this clarification inadvertently capture communications properly attributed under the time and space rules set forth at 11 CFR 106.1(a)(1)?

Page 51, Line 19: Delete "9." and insert:

PROPOSED CLARIFICATION OF "PAYMENT PRONG"

9. Section 109.21 would be amended by revising paragraph (a)(1) to read as follows:

§ 109.21 What is a "coordinated communication"?

(a) * * *

(1) Is paid for, in whole or in part, by a person other than that candidate, authorized committee, political party committee, or agent of any of the foregoing when the communication:

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10.