

to calculate future fund needs. A licensee, whose rates for decommissioning costs cover only a portion of these costs, may make use of this method only for the portion of these costs that are collected in one of the manners described in this paragraph, (e)(1)(ii). This method may be used as the exclusive mechanism relied upon for providing financial assurance for decommissioning in the following circumstances:

(A) By a licensee that recovers, either directly or indirectly, the estimated total cost of decommissioning through rates established by "cost of service" or similar ratemaking regulation. Public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, that establish their own rates and are able to recover their cost of service allocable to decommissioning, are assumed to meet this condition.

(B) By a licensee whose source of revenues for its external sinking fund is a "non-bypassable charge," the total amount of which will provide funds estimated to be needed for decommissioning pursuant to §§ 50.75(c), 50.75(f), or 50.82 of this part.

* * * * *

Dated at Rockville, Maryland, this 11th day of March, 2003.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

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FEDERAL ELECTION COMMISSION

11 CFR Part 111

[NOTICE 2003-6]

Administrative Fines

AGENCY: Federal Election Commission.

ACTION: Final rules and transmittal of regulations to Congress.

SUMMARY: The Commission is amending its administrative fines regulations to reduce the civil money penalties for political committees with less than \$50,000 in financial activity in a reporting period that file reports late or that do not file them at all. The revised rules create two additional levels-of-activity brackets for such committees to make further distinctions in the amount of the civil money penalty assessed. The amendments also change the method for calculating the "level of activity" on which civil money penalties are based

for unauthorized committees by excluding certain non-Federal activity from the calculation. Additionally, these amended rules: clarify how late filers and non-filers will be notified of reason-to-believe findings, final determinations and other actions; and clarify the factors that will not be considered "extraordinary circumstances" when findings or penalties are challenged. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

EFFECTIVE DATE: April 16, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Ms. Dawn M. Odrowski, Attorney, at 999 E Street, NW., Washington, DC., 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is issuing final rules to make certain revisions to its administrative fines program. The program enables the Commission to adjudicate reporting violations of section 434(a) of the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act"), 2 U.S.C. 431 *et seq.*, by political committees and their treasurers who fail to file, or untimely file, required campaign finance disclosure reports. The adjudication employs a streamlined procedure that affords respondents due process rights and assesses a civil money penalty for violations based on published penalty schedules. The Commission established the administrative fines program in July 2000 pursuant to 2 U.S.C. 437g(a)(4). See Treasury and Government Appropriations Act, 2000, Pub. L. 106-58, 106th Cong. § 640, 113 Stat. 430, 476-77 (1999), as amended by the Treasury and General Government Appropriations Act, 2002, Pub. L. 107-67, 107th Cong. § 642, 115 Stat. 514, 555 (2001) and Explanation and Justification for Administrative Fines, 65 FR 31787 (May 19, 2000) and 66 FR 59680 (November 30, 2001). The sunset date of the program is December 31, 2003. See 11 CFR 111.30.

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules on administrative fines were transmitted to Congress on March 7, 2003.

Explanation and Justification

The Commission initiated this rulemaking by publishing a Notice of Proposed Rulemaking ("NPRM") on April 25, 2002 in which it sought comment on proposed rules amending the current administrative fines regulations based on its experience with the program. 67 FR 20461 (April 25, 2002). The NPRM sought comment on proposed amendments to lower the civil money penalties for all late- and non-filers, and to clarify how it notifies respondents in the administrative fines program of reason-to-believe findings and final determinations. The NPRM also sought comment generally on: (1) Whether to limit the scope of the civil money penalty reduction to those committees with less than \$50,000 in financial activity in a reporting period, or alternatively, to limit reduction to the fine schedule applicable to late- or non-filed non-election sensitive reports; (2) Whether to clarify that certain circumstances do not constitute "extraordinary circumstances" for purposes of challenging a reason-to-believe finding; and (3) Whether to revise the method of calculating the "level of activity" on which civil money penalties are based to exclude certain non-Federal activity.

The comment period closed on May 28, 2002. Comments were received from FEC Watch and from the law firm of Sandler, Reiff and Young.

11 CFR 111.35 If the Respondent Decides to Challenge the Alleged Violation Or the Proposed Civil Money Penalty, What Should the Respondent Do?

11 CFR 111.35(b) sets forth the requirements for written responses that a respondent may choose to make to challenge a reason-to-believe finding or a proposed civil money penalty. It contains specific circumstances that the Commission will consider in determining whether to levy a civil money penalty, including the existence of "extraordinary circumstances" that were beyond the respondents' control, that continued for at least 48 hours, and that prevented the timely filing of a report. Paragraph (b)(4) provides four broad examples of circumstances that the Commission will not consider to be "extraordinary." Respondents have raised a number of other defenses that the Commission has determined are not "extraordinary circumstances."

The NPRM sought comment as to whether 11 CFR 111.35 should be revised to state more specifically the kinds of circumstances that the Commission will not accept as an

“extraordinary circumstances” defense. Neither of the commenters addressed this issue.

In the final rules that follow, the Commission adds to section 111.35(b)(4) two more examples of circumstances that are not considered extraordinary. Specifically, paragraph (b)(4)(iii) of 11 CFR 111.35 is being amended to include, in addition to staff illness, staff “inexperience” and “unavailability.” The revision also clarifies that the term “staff” includes the treasurer. The Commission strongly encourages political committees to name an assistant treasurer so that their financial activities will not be disrupted, thus avoiding violating the reporting requirements when their treasurer is unavailable.

11 CFR 111.43 What are the Schedules of Penalties?

1. Revised Civil Money Penalty Schedules

The NPRM proposed amendments to the civil money penalty schedule for election sensitive and non-election sensitive reports that would have lowered civil money penalties for all late- and non-filed reports. The Commission was concerned that, based on its experience with the administrative fines program, the published fines schedules for political committees with lower levels of financial activity, generally below \$50,000 in a reporting period, may have been too high. Committees in this category are often those of candidates who have lost an election or who have withdrawn from the race and fail to continue filing the required disclosure reports until they are eligible to terminate. Fines for these committees can be relatively high due to their failure to file because the civil money penalties are calculated using the estimated level of activity from previously filed reports. Therefore, the fines may create a hardship for some authorized committees and their treasurers since many unsuccessful campaigns lack fundraising ability and their treasurers, who are sometimes volunteers, are legally liable for the fines.

The Commission was also concerned that the civil money penalty schedules at all levels of activity may result in fines that are substantial compared with civil penalties for other types of FECA violations that the Commission approves in conciliation agreements reached through the traditional enforcement process. *See* 2 U.S.C. 437g(a). The concern was exacerbated by the fact that the 25% recidivist factor

was beginning to take effect for repeat violations.

The Commission sought comment in the NPRM on the impact of lowering civil money penalties across the board, specifically: Whether the proposed reductions would still provide an incentive for committees to file timely their reports and not become merely a cost of doing business, and whether reductions would affect committees’ decisions to challenge reason-to-believe findings and proposed civil money penalties. The Commission specifically sought comment on two alternatives to lowering the civil money penalties across the board: Lowering the penalties only for committees with levels of financial activity below \$50,000 per report, or lowering the penalties only for non-election sensitive reports.

One of the commenters generally agreed with more lenient treatment for committees with minimal financial activity during a reporting period because such committees are often “defunct, moribund or winding down and are often staffed by volunteer treasurers who are not able to deal with complex federal election laws and regulations.” This commenter did not specifically address reducing fines overall but rather urged a change in calculating the “level of activity” on which the administrative fines are based. (See below).

The other commenter generally disagreed with lowering the civil money penalties “until an adequate administrative record can be established.” The commenter rejected as a justification for lowering fines across the board the concern that civil penalties in the administrative fines program were high relative to civil penalties approved in conciliation agreements for other types of FECA violations. The commenter argued that this disparity could also be interpreted as evidence that civil penalties in conciliation agreements are too low. The commenter also suggested that the recidivist factor could be lowered if the Commission was concerned it might contribute to disproportionately high civil penalties. This commenter further urged that the standard applied in adjusting the fines should be whether the fines are higher than necessary to serve as incentive to file reports timely. The commenter referred to an April 25, 2002, Commission press release that credited the administrative fines program with reducing the percentage of late filers from 24% to 11% between 1998 and 2000. The commenter noted that, although 11% non-compliance is still too high, these gains in disclosure should not be undermined without

substantial justification. Finally, the commenter urged that if the Commission reduced the fines, it should selectively target the reduction at committees with lower levels of financial activity where, according to the NPRM, the most undesirable results have occurred.

Neither commenter opined on whether lowering the fines would affect committees’ decisions to challenge reason-to-believe findings or proposed civil money penalties.

Based on its continued experience with the administrative fines program, the Commission has decided to target the reductions in the civil money penalty schedules to committees with levels of financial activity below \$50,000 per report. As of January 31, 2003, 60% of the political committees against whom the Commission made reason-to-believe findings and proposed a civil money penalty had under \$50,000 of financial activity on the late- or non-filed report. As noted in the NPRM, many committees in this category are winding down, or are established by candidates who have lost, or have withdrawn from, an election. The concern that a reduction in fines will serve as a disincentive to file timely future reports is not as relevant for such committees. Moreover, the fact that these committees still face a fine continues to provide an incentive for them to file a final report.

Although the Commission has decided not to reduce civil money penalties “across the board,” it notes that it has revised its method of calculating the “level of activity” to exclude receipts and disbursements for unauthorized committees that report a non-Federal share of allocated Federal/non-Federal activity. This change, discussed below, will effectively lower “across the board” penalties faced by certain unauthorized committees that allocate expenses between Federal and non-Federal accounts. This will result in penalties that are more reflective of a committee’s level of participation in Federal elections.

Accordingly, the final rules at amended 11 CFR 111.43 include two sets of civil money penalty schedules. Paragraphs (a)(1) and (b)(1) maintain the previous penalty schedules for non-election sensitive and election sensitive reports, respectively, with due dates before the effective date of these rules. Paragraphs (a)(2) and (b)(2) include new schedules that reduce civil money penalties for non-election sensitive and election sensitive reports of committees with less than \$50,000 in activity. These new schedules will apply to reports that

are due on or after the effective date of these rules.

The previous and current civil money penalty schedules for late filers have two components: A base amount that increases with the level of activity reflected in a report and an additional charge for each day a report is late. The previous and current schedules for nonfilers consist of a base amount that increases with the level of activity. Both late and nonfilers are subject to a recidivist escalator that increases the penalty by 25% for each previous violation.

The reduction in civil money penalties for committees with levels of activity below \$50,000 is being accomplished in two ways. First, the bracket previously covering levels of activity of under \$25,000 is now divided

into three brackets covering levels of activity of \$1-\$4,999.99, \$5,000-\$9,999.99 and \$10,000-\$24,999.99, respectively. This subdivision makes more refined distinctions in penalties for committees at the lowest levels of financial activity. Second, the base amount and/or the per day charge is being reduced in each level of activity bracket below \$50,000. The civil money penalty reductions at these levels are identical to the reductions proposed in the NPRM. The civil money penalty schedules for committees with levels of activity of \$50,000 and above are unchanged from former 11 CFR 111.43(a) and (b).

For late-filed non-election sensitive reports with levels of activity of \$1-\$4,999.99, the per day charge is being reduced from \$25 to \$5 and the base

penalty is being reduced from \$100 to \$25; for reports with levels of activity of \$5,000-\$9,999.99, the per day charge is being reduced from \$25 to \$5 and the base penalty is being reduced from \$100 to \$50; for reports with levels of activity of \$10,000-\$24,999.99, the per day charge is being reduced from \$25 to \$5 and the base penalty remains at \$100; and for reports with levels of activity of \$25,000-\$49,999.99, the per day charge is being reduced from \$50 to \$20 and the base penalty remains at \$200. Reductions in the civil money penalties for late-filed non-election sensitive reports with less than \$50,000 of activity range between 12% and 79.4%. A chart illustrating the penalty reductions for late-filed non-election sensitive reports follows:

Level of activity in report	Civil money penalty for late-filed non-election sensitive reports due before April 16, 2003.	Civil money penalty for late filed non-election sensitive reports due on or after April 16, 2003.
\$1-4,999.99 ^a	$[\$100 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$25 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000-\$9,999.99	$[\$100 + (\$25 \times \text{Number of days late})] \times (.25 \times \text{Number of previous violations})]$.	$[\$50 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000-\$24,999.99	$[\$100 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$100 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000-\$49,999.99	$[\$200 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$200 + (\$20 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.

Non-election sensitive reports are deemed not filed if they are filed more than 30 days late or not filed at all. The final rule at 11 CFR 111.43(a)(2)(iii) reduces the base penalty for reports with levels of activity of \$1-\$4,999.99 from \$900 to \$250; for reports with

levels of activity of \$5,000-\$9,999.99 from \$900 to \$300; for reports with levels of activity of \$10,000-\$24,999.99 from \$900 to \$500; and for reports with levels of activity of \$25,000-\$49,999.99 from \$1800 to \$900. Reductions in the civil money penalties for non-filed non-

election sensitive reports with less than \$50,000 in activity range between 50% and 72%. A chart illustrating the penalty reductions for non-filed non-election sensitive reports follows:

Level of activity in report	Civil money penalty for non-election sensitive non-filed reports due before April 16, 2003.	Civil money penalty for non-election sensitive non-filed reports due on or after April 16, 2003.
\$1-4,999.99	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$250 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000-\$9,999.99	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$300 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000-\$24,999.99	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000-\$49,999.99	$\$1800 \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.

For late-filed election sensitive reports with levels of activity of \$1-\$4,999.99, the per day charge is being reduced from \$25 to \$10 and the base penalty is being reduced from \$150 to \$50; for reports with levels of activity of \$5,000-\$9,999.99, the per day charge is being reduced from \$25 to \$10 and the base penalty is being reduced from \$150

to \$100; for reports with levels of activity of \$10,000-\$24,999.99, the per day charge is being reduced from \$25 to \$10 and the base penalty remains at \$150; and for reports with levels of activity of \$25,000-\$49,999.99, the per day charge is being reduced from \$50 to \$25 and the base charge remains at \$300. Reductions in the civil money

penalties for late-filed election sensitive reports with less than \$50,000 of activity range between 7.1% and 65.7%. A chart illustrating the penalty reductions for late-filed election sensitive reports follows:

Level of activity in report	Civil money penalty for late-filed election sensitive reports due before April 16, 2003.	Civil money penalty for late-filed election sensitive reports due on or after April 16, 2003.
\$1–\$4,999.99	$[\$150 + (\$25 \times \text{Number of days late})] [1 + (.25 \times \text{Number of previous violations})]$.	$[\$50 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$
\$5,000–\$9,999.99	$[\$150 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$100 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000–\$24,999.99	$[\$150 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$150 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–\$49,999.99	$[\$300 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$[\$300 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$

Election sensitive reports are deemed not filed if they are not filed prior to four days before an election. The final rule at 11 CFR 111.43(b)(2)(iii) reduces the base penalty for these reports with levels of activity of \$1–\$4,999.99 from

\$1,000 to \$500; for levels of activity of \$5,000–\$9,999.99 from \$1,000 to \$600; for levels of activity of \$10,000–\$24,999.99 from \$1,000 to \$900; and for levels of activity of \$25,000–\$49,999.99 from \$2,000 to \$1,400. Reductions in the

civil money penalties for non-filed election sensitive reports with less than \$50,000 of activity range between 10% and 50%. A chart illustrating the penalty reductions for non-filed election sensitive reports follows:

Level of activity in report	Civil money penalty for election sensitive non-filed reports due before April 16, 2003.	Civil money penalty for election sensitive non-filed reports due on or after April 16, 2003.
\$1–\$4,999.99	$1,000 \times [1 + (.25 \times \text{Number of previous violations})]$.	$500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$5,000–\$9,999.99	$1,000 \times [1 + (.25 \times \text{Number of previous violations})]$.	$600 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000–\$24,999.99	$1,000 \times [1 + (.25 \times \text{Number of previous violations})]$.	$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–\$49,999.99	$2,000 \times [1 + (.25 \times \text{Number of previous violations})]$.	$1,400 \times [1 + (.25 \times \text{Number of previous violations})]$

2. Revised Calculation of the “Level of Activity” and “Estimated Level of Activity”

The Commission calculates civil money penalties by applying the civil money penalty schedules at 11 CFR 111.43 to a political committee’s “level of activity.” Under the previous rule at 11 CFR 111.43(d), the “level of activity” is defined as the “total amount of receipts and disbursements for the period covered by the late-filed report.” If the report is not filed, the “level of activity” is based on the “estimated level of activity,” which is an estimate of total receipts and disbursements based on previously reported amounts.

The NPRM reflected the Commission’s concern, based on its experience with the administrative fines program, that using total receipts and disbursements as the basis for the penalty calculation may have unfairly resulted in higher fines for political committees that finance non-Federal activity through their Federal accounts. For example, unauthorized committees that finance activities in connection with both Federal and non-Federal elections must allocate disbursements for those activities between their Federal and non-Federal accounts and must pay for those expenses from their Federal account or from a separate Federal allocation account. *See generally* 11 CFR 106.6 and 106.7. Non-

Federal funds must be transferred into the Federal accounts to pay for the non-Federal share of the activity, thereby resulting in higher total receipts and disbursements for those committees than for political committees that do not have allocable activity.

The NPRM sought comment on whether the Commission should alter the way it calculates the level of activity. 67 FR 20463. The Commission sought comment generally on whether the level of activity should exclude all receipts or disbursements that are not for the purpose of influencing a Federal election. In addition to the receipt of non-Federal transfers to pay for the non-Federal share of allocable activity, the Commission asked whether other types of disbursements should be excluded and gave several examples, such as disbursements by an authorized committee made to influence the election of candidates to State or local office.

One of the commenters urged the Commission to exclude from the “level of activity” definition those disbursements for the non-Federal portion of allocated Federal/non-Federal activity, such as certain generic get-out-the-vote drives, as well as the receipt of non-Federal fund transfers to pay for those disbursements. The commenter maintained that including these receipts and disbursements “unfairly punished” State and local political party

committees, whose activities are focused more on State and local elections. The commenter illustrated this point by using an example of a local party committee. Using a similar example under the current allocation regime for State and local party committees, depending on the election cycle, only 15% to 36% of allocable activity under 11 CFR 106.7 is considered Federal. Under the Commission’s allocation regulations, such a committee must make disbursements from its Federal account to cover the 64% to 85% of the activity that is attributable to non-Federal elections and then reimburse the Federal account via transfers from its non-Federal account. Under the prior rules, the civil money penalty was based on the total of Federal and non-Federal activity since both are reported. As an alternative to changing the way “level of activity” is calculated, the commenter argued that the Commission should create a separate, more lenient schedule for committees that allocate expenses.

The other commenter disagreed with that approach. It noted that the Explanation and Justification (“E&J”) for the administrative fines rules issued in May 2000 rejected a suggestion that the “level of activity” be based on contributions and expenditures rather than total receipts and disbursements. The E&J noted that 2 U.S.C. 437g(a)(4), which permits the Commission to

implement the administrative fines program, requires the Commission to “take[s] into account, the amount of the violation involved,” and concluded that, since 2 U.S.C. 434 required committees to report all receipts and disbursements, the “amount of the violation involved” was equal to the total receipts and disbursements. See Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31792 (May 19, 2000). The commenter observed that the Commission’s regulations required committees to report non-Federal disbursements that are part of an allocable Federal/non-Federal activity and are paid for via non-Federal transfers to the Federal account. By excluding these amounts in the civil penalty calculation, the commenter argued that the Commission would effectively treat the disclosure of some types of receipts and disbursements as less important than others.

The Commission continues to believe that, in most cases, “total receipts and disbursements” is a fair basis on which to calculate a civil money penalty for violations of 2 U.S.C. 434(a). However, based on its experience with the administrative fines program, the Commission concludes that basing a civil money penalty on “total receipts and disbursements” may unfairly inflate the level of activity for unauthorized committees that allocate expenses between Federal and non-Federal accounts because a large portion of their receipts and disbursements may be attributable to non-Federal activity that must be reported through a Federal account. The Commission concludes that it is a permissible construction of 2 U.S.C. 437g(a)(4) to exclude from the definition of “level of activity” receipts and disbursements attributable to the payment of allocable non-Federal activity. Section 437g(a)(4) of FECA permits the Commission to establish and publish a schedule of penalties “which takes into account the amount of the violation involved . . . and other factors as the Commission deems appropriate.” (Emphasis added). It is both appropriate and fair to exclude from the civil money penalty calculation those receipts and disbursements solely attributable to payment of the non-Federal portion of allocated Federal/non-Federal activity. This approach ensures that the civil money penalty is proportionate to a committee’s level of participation in Federal elections.

Other disbursements that may be characterized as non-Federal but that are paid for with Federal funds, such as a disbursement by an authorized

committee to a State or local candidate, will not be excluded from the “level of activity” calculation. In these cases, a political committee chooses to use Federally-permissible receipts deposited in a Federal account for a non-Federal purpose. In contrast, where non-Federal funds are used to pay the non-Federal share of allocable activities, these funds flow through, and are reported by, the Federal account because Commission regulations so require.

Because only unauthorized committees are affected by the allocation rules, the definitions of “level of activity” and “estimated level of activity” have been amended only as applied to them. The definitions of these terms remain the same for late-filed or non-filed reports of all political committees before the effective date of these rules and for late-or non-filed reports of authorized committees due on or after the effective date of these rules. To make these distinctions clear, the definitions of “level of activity” and “estimated level of activity” have been moved in the final rules from 11 CFR 111.43(d) into revised section 111.43(a) and (b).

Specifically, the definitions of “level of activity” and “estimated level of activity” remain the same for late- and non-filed reports of all political committees that are due before the effective date of these rules as set forth in 11 CFR 111.43(a)(1)(i), 111.43(a)(1)(ii), 111.43(b)(1)(i) and 111.43(b)(1)(ii) and correspond to the schedule of penalties for reports due before the effective date of these final rules. The definitions of these terms also remain unchanged when applied to late- and non-filed reports of authorized committees that are due on or after the effective date of these rules as set forth in 11 CFR 111.43(a)(2)(i)(A), 111.43(a)(2)(ii)(A), 111.43(b)(2)(i) and 111.43(b)(2)(ii).

However, the final rules include revised definitions of “level of activity” and “estimated level of activity” as applied to late-filed and non-filed reports of unauthorized committees due on or after the effective date of these rules. Specifically, the final rule applicable to late-or non-filed non-election sensitive reports in 11 CFR 111.43(a)(2)(i)(B) provides that the definition of “level of activity” for these unauthorized committees means “total amount of receipts and disbursements” for the period covered by the late report minus the total of: (1) transfers received from non-Federal account(s) (from Schedule H3) as reported on Line 18(a) of FEC Form 3X, and (2) disbursements for the non-Federal share of operating expenditures attributable to allocated

Federal/non-Federal activity (from Schedule H4) as reported on Line 21(a)(ii) covered by the late report. The final rule applicable to late-filed or non-filed election-sensitive reports at new 11 CFR 111.43(b)(2)(i) refers back to that definition.

Similarly, the final rule applicable to late- and non-filed non-election sensitive reports of unauthorized committees due on or after the effective date contains a new definition of “estimated level of activity” expressed in a formula. New 11 CFR 111.43(a)(2)(ii)(B)(1) provides that “estimated level of activity” is calculated as follows: [(total receipts and disbursements reported in the current 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 Form 3X)] ÷ number of reports filed covering the activity in the current two-year election cycle. The final rule applicable to late-filed or non-filed election-sensitive reports of unauthorized committees at new 11 CFR 111.43(b)(2)(ii) refers back to that definition. Please note that the line number for transfers is different when referring to pre-BCRA reports.

Finally, new 11 CFR 111.43(a)(2)(ii)(B)(2) addresses the calculation of “estimated level of activity” when an unauthorized committee has not filed a non-election sensitive report covering activity in the current two-year election cycle. In that case, “estimated level of activity” is calculated as: [(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 Form 3X)] ÷ number of reports filed covering the activity in the prior two-year election cycle. New 11 CFR 111.43(b)(2)(ii) refers back to that definition for election-sensitive reports.

The Commission emphasizes that the exclusion of non-Federal receipts and disbursements attributable to allocable activity from the calculation of “level of activity” does not change an unauthorized committee’s obligation to fully disclose these amounts. Failure to do so is a violation of the Act and

Commission regulations and may be pursued by the Commission in an enforcement action under subpart A of 11 CFR part 111.

11 CFR 111.45 What Actions Will Be Taken to Collect Unpaid Civil Penalties?

11 CFR 111.45 is being revised to correct citations to regulations establishing the Federal Claims Collection Standards. After the Commission's administrative fines rules were promulgated on May 19, 2000, the Department of Justice and the Department of Treasury, in place of the General Accounting Office, revised and recodified the Federal Claims Collection Standards at 31 CFR parts 900 through 904. *See* 65 FR 70390 (November 22, 2000). No comments were received on this revision.

11 CFR 111.46 How Will the Respondent Be Notified of Actions Taken by the Commission and the Reviewing Officer?

Respondents who have challenged reason-to-believe findings in the administrative fines program have sometimes maintained that they did not receive notification because it was sent to an old address even though the Commission sent the notification to the political committee's address of record in the Statement of Organization on file with the Commission.

In the NPRM, the Commission proposed revisions to four regulations to clarify how notifications and other communications called for in subpart B of 11 CFR part 111 would be delivered to respondents. 67 FR 20464. Neither of the commenters addressed this issue.

The Commission has since concluded that this issue may be addressed more efficiently by adding a new regulation rather than by amending several current regulations. New 11 CFR 111.46 addresses how respondents will be notified of reason-to-believe findings, final determinations and all other communications authorized in subpart B of part 111 governing the administrative fines program. The final rule clarifies that unless a respondent has filed a statement designating counsel in accordance with 11 CFR 111.23, all notifications or other communications from the Commission or the administrative fines reviewing officer will be sent to a respondent political committee and its treasurer at the committee address listed in the most recent Statement of Organization or amendment thereto, filed with the Commission. If counsel has been designated, all contact will be with counsel unless the respondent

authorizes direct contact in writing. *See* 11 CFR 111.23. The substantive effect of new section 111.46 is identical to the revisions proposed in the NPRM.

This new rule is supported by the statute and case law. 2 U.S.C. 433(c) requires a political committee to file any changes in a previously filed Statement of Organization, including an address, within ten days after the change. Moreover, in a recent case in which a respondent in the administrative fines program challenged the Commission's final determination, the district court held that mailing a notification to the committee's last known address constitutes constitutionally significant notice. *See Cunningham v. FEC*, 2002 WL 31431557, at *4 (S.D. Ind.)(2002).

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

The Commission certifies that the attached final rules will not have a significant economic impact on a substantial number of small entities. The basis for this certification for any small entities subject to the amended rules is that the civil money penalties are lower than those previously assessed and are scaled to better take into account the amount of financial activity on reports filed by political committees. Thus, committees with lower levels of financial activity are subject to lower fines than political committees with higher amounts. Moreover, the calculation of the civil money penalty has been revised so that it better takes into account the level of Federal activity for committees that finance allocable Federal and non-Federal activity. These committees would also be subject to lower civil penalties since they are now based only on the portion of their finances attributable to Federal activity. Finally, some entities affected by the rules, such as political committee treasurers and committees of the two major political parties, are not small entities under 5 U.S.C. 601 because they are not small businesses, organizations or small governmental jurisdictions.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement.

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

PART 111—COMPLIANCE PROCEDURES (2 U.S.C. 437g, 437d(a))

1. The authority citation for part 111 continues to read as follows:

Authority: 2 U.S.C. 437g, 437d(a), 438(a)(8).

2. Section 111.35 is amended by revising paragraph (b)(4)(iii) to read as follows:

§ 111.35 If the respondent decides to challenge the alleged violation or proposed civil money penalty, what should the respondent do?

* * * * *

(b) * * *

(4) * * *

(iii) Illness, inexperience, or unavailability of staff, including the treasurer;

* * * * *

3. Section 111.43 is amended by:

a. Revising paragraph (a);

b. Revising paragraph (b); and

c. Amending paragraph (d) by removing the definitions of *estimated level of activity* and *level of activity*.

The revised text reads as follows:

§ 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	$[\$100 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$+\$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–49,999.99	$[\$200 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1800 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–74,999.99	$[\$300 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$2700 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000–99,999.99	$[\$400 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000–149,999.99	$[\$600 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000–199,999.99	$[\$800 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000–249,999.99	$[\$1,000 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000–349,999.99	$[\$1500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$8000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000–449,999.99	$[\$2000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000–549,999.99	$[\$2500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000–649,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000–749,999.99	$[\$3500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000–849,999.99	$[\$4000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000–949,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$950,000 or over	$[\$5000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$

^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	$[\$25 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$250 \times [1 + (.25 \times \text{Number of previous violations})]$
\$5,000–9,999.99	$[\$50 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$300 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000–24,999.99	$[\$100 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$

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:
\$25,000–49,999.99	$[\$200 + (\$20 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–74,999.99	$[\$300 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$2700 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000–99,999.99	$[\$400 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000–149,999.99	$[\$600 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000–199,999.99	$[\$800 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000–249,999.99	$[\$1,000 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000–349,999.99	$[\$1500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$8000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000–449,999.99	$[\$2000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–549,999.99	$[\$2500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000–649,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000–749,999.99	$[\$3500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000–849,999.99	$[\$4000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000–949,999.00	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$950,000 or over	$[\$5000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$

^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.

(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	$[\$150 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–49,999.99	$[\$300 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$2000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–74,999.99	$[\$450 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000–99,999.99	$[\$600 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000–149,999.99	$[\$900 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000–199,999.99	$[\$1200 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000–249,999.99	$[\$1500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000–349,999.99	$[\$2250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000–449,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000–549,999.99	$[\$3750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000–649,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000–749,999.99	$[\$5250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$13,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000–849,999.99	$[\$6000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000–949,999.99	$[\$6750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$15,000 \times [1 + (.25 \times \text{Number of previous violations})]$

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:
\$950,000 or over	$[\$7500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$16,000 \times [1 + (.25 \times \text{Number of previous violations})]$

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

(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	$[\$50 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000–\$9,999.99	$[\$100 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$600 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000–24,999.99	$[\$150 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000–49,999.99	$[\$300 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1,400 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000–74,999.99	$[\$450 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$75,000–99,999.99	$[\$600 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000–149,999.99	$[\$900 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000–199,999.99	$[\$1200 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000–249,999.99	$[\$1500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000–349,999.99	$[\$2250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000–449,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000–549,999.99	$[\$3750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000–649,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000–749,999.99	$[\$5250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$13,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000–849,999.99	$[\$6000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000–949,999.99	$[\$6750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$15,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$950,000 or over	$[\$7500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$16,000 \times [1 + (.25 \times \text{Number of previous violations})]$.

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

* * * * *

4. Section 111.45 is amended by removing in the second sentence the phrase, “4 CFR parts 101 through 105” and by adding in its place, “31 CFR parts 900 through 904,” and by removing in the second sentence the phrase, “General Accounting Office” and adding in its place, “U.S. Department of the Treasury.”

5. Section 111.46 is added to read as follows:

§ 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.

Dated: March 7, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–5957 Filed 3–14–03; 8:45 am]

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