



FEDERAL ELECTION COMMISSION

11 CFR Parts 4, 100, 102, 104, 110, 111, and 114

[NOTICE 2014-07]

Federal Election Campaign Act Rules; Corrections

AGENCY: Federal Election Commission.

ACTION: Correcting amendments.

SUMMARY: The Commission is making technical corrections to various sections of its regulations.

DATES: Effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, Ms. Joanna S. Waldstreicher, Attorney, or Mr. Eugene Lynch, Paralegal, 999 E Street, NW., Washington, D.C. 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Background

The existing rules that are the subject of these corrections are part of the continuing series of regulations that the Commission has promulgated to implement the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* (“FECA”). The Commission is promulgating these corrections without advance notice or an opportunity for comment because they fall under the “good cause” exemption of the Administrative Procedure Act. 5 U.S.C. 553(b)(B). The Commission finds that notice and comment are unnecessary here because these corrections are merely typographical and technical; they effect no substantive changes to any rule. For the same reason, these corrections fall within the “good cause” exception to the delayed effective date provisions of the Administrative Procedure Act and the Congressional

Review Act. 5 U.S.C. 553(d)(3), 808(2). Accordingly, these corrections are effective upon publication in the Federal Register. The Commission is not required to submit these corrections for congressional review. See 2 U.S.C. 438(d)(1), (4).

Corrections to FECA Rules in Chapter I of Title 11 of the Code of Federal Regulations

A. Correction to 11 CFR 4.8

The Commission is correcting an erroneous citation in paragraph (a) of this section by replacing the reference to 11 CFR 4.6(d) with 11 CFR 4.7(h). Paragraph (a) refers to notification “pursuant to § 4.6(d)” that a request for inspection or a copy of a record has been denied, but section 4.6 addresses the discretionary release of records by the Commission, not notification of a denial of access to records. Moreover, section 4.6 does not contain a paragraph (d). Section 4.7(h) concerns the notification to a person who has been denied access to records.

B. Correction to 11 CFR 100.1

This section lists the statutes implemented by subchapter A of chapter I of the Commission’s regulations. The list in this section is currently incomplete. To encompass all relevant statutes, the Commission is revising this section to note that subchapter A implements FECA, as amended, 2 U.S.C. 431 et seq.

C. Correction to 11 CFR 100.18

This section defines the term “the Act” as used in the Commission’s regulations to include the Federal Election Campaign Act of 1971 and each subsequent amendment to it. The list of amendments in this section is currently incomplete. To encompass all relevant statutes, the Commission is revising this section to define “the Act” as FECA, as amended, 2 U.S.C. 431 et seq.

D. Correction to 11 CFR 100.29

The Commission is correcting a typographical error in paragraph (c) of this section by italicizing the first instance of the word “electioneering,” so that the entire phrase “electioneering communication” is italicized and not just the word “communication.”

E. Corrections to 11 CFR 100.52

The Commission is correcting typographical errors in two citations in paragraph (a) of this section by replacing the references to 11 CFR 100.72 and 100.73 with 11 CFR 100.82 and 100.83, respectively. Section 100.52(a) excludes “a loan made in accordance with 11 CFR 100.72 and 100.73” from the definition of “contribution.” Sections 100.72 and 100.73, however, concern the “testing the waters” and media exceptions to the definition of “contribution,” not loans. The Commission is therefore replacing the references to sections 100.72 and 100.73 in 11 CFR 100.52(a) with references to sections 100.82 and 100.83, which concern bank loans and brokerage loans and lines of credit.

The Commission is also correcting an erroneous citation in paragraph (b)(5) of this section by replacing the reference to 11 CFR 110.4(a) with a reference to 11 CFR 110.20. Section 100.52(b)(5) states that payments of interest on loans to a political committee “shall be made from funds subject to the prohibitions of section 110.4(a).” Section 110.4(a) previously prohibited foreign nationals from making contributions or expenditures, but that provision was moved to section 110.20 in 2003, and section 110.4(a) was reserved. The Commission is therefore replacing the reference to 11 CFR 110.4(a) with a reference to section 110.20, which also conforms this citation to the citation in a corresponding provision in the same paragraph.

F. Correction to 11 CFR 100.82

The Commission is correcting a typographical error in a citation in paragraph (f) of this section by replacing the reference to 11 CFR 100.73 with 11 CFR 100.83. Section 100.82(f)

states that “this section shall not apply to loans described in 11 CFR 100.73.” Section 100.73 concerns the media exception, however, not loans. The Commission is thus replacing the citation to section 100.73 with a citation to section 100.83, which concerns brokerage loans and lines of credit.

G. Correction to 11 CFR 100.134

The Commission is correcting a typographical error in a citation in paragraph (d)(2)(iv) of this section by replacing the reference to 26 CFR 1.3402(a)-(1) with a reference to 26 CFR 31.3402(a)-(1). Paragraph (d)(2)(iv) defines “executive or administrative personnel” of a corporation to include individuals who may be paid by the corporation but who are not employees for tax purposes “under 26 CFR 1.3402(a)-(1).” The reference to section 1.3402(a)-(1) should be to section 31.3401(a)-(1); 26 CFR 31.3402(a)-(1) sets forth requirements and methods for tax collection, while there is no section 1.3402(a)-(1) in Title 26.

H. Corrections to 11 CFR 102.9

The Commission is correcting typographical errors in two citations in paragraph (f) of this section by replacing the references to 11 CFR 110.1(1) and 11 CFR 110.1(1)(5) with references to 11 CFR 110.1(l) and 11 CFR 110.1(l)(5), respectively. Paragraph (f) concerns a treasurer’s obligation to maintain documentation regarding the designation, redesignation, and reattribution of contributions under section 110.1. As currently written, the citations to section 110.1 refer to paragraph one of that section, but there is no paragraph one in section 110.1; rather, it is paragraph (l) (lowercase letter L) of section 110.1 that pertains to maintaining documentation. Thus, each reference to paragraph one of section 110.1 is being replaced with a reference to paragraph (l).

I. Corrections to 11 CFR 104.5

The Commission is correcting two citations in paragraph (c)(3)(ii) of this section by replacing the references to 11 CFR 104.5(a)(1)(ii) and 11 CFR 104.5(a)(1)(iii) with 11 CFR 104.5(a)(2)(i) and 11 CFR 104.5(a)(2)(ii), respectively. Section 104.5(c)(3)(ii) provides that pre-election reports “shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii),” and post-general election reports “shall be filed as prescribed in 11 CFR 104.5(a)(1)(iii).” The cited provisions, however, do not concern pre-election or post-general election reports. Instead, they concern the filing of quarterly reports. Section 104.5(a) was reorganized in 2003; as revised, the filing of pre-election reports is addressed in 11 CFR 104.5(a)(2)(i), and post-general election reports are addressed in 11 CFR 104.5(a)(2)(ii). See Bipartisan Campaign Reform Act of 2002 Reporting; Coordinated and Independent Expenditures, 68 FR 404, 408 (Jan. 3, 2003). The Commission is thus making conforming amendments to 11 CFR 104.5(c)(3)(ii) by replacing the reference to 11 CFR 104.5(a)(1)(ii) with 11 CFR 104.5(a)(2)(i), and by replacing the reference to 11 CFR 104.5(a)(1)(iii) with 11 CFR 104.5(a)(2)(ii).

J. Corrections to 11 CFR 104.6

The Commission is correcting two citations in paragraph (b) of this section by replacing the references to 11 CFR 104.5(a)(1)(iii) and 11 CFR 104.5(a)(1)(i) with 11 CFR 104.5(a)(1) and 11 CFR 104.5(a)(2)(i), respectively. Section 104.6(b) provides that certain reports “shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and, with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i).” When section 104.6(b) was promulgated, section 104.5(a)(1)(iii) concerned the filing of quarterly reports, and section 104.5(a)(1)(i) concerned the filing of pre-election reports. See Amendments to Federal Election Campaign Act of 1971, 45 FR 15080, 15086 (Mar. 7, 1980); 11 CFR 104.5(a) (1980). As noted above, however, section 104.5(a) was reorganized in 2003; as reorganized, quarterly reporting requirements appear in

section 104.5(a)(1), and pre-election reporting requirements appear in section 104.5(a)(2)(i).

The Commission is thus making conforming amendments to 11 CFR 104.6(b) by replacing the reference to 11 CFR 104.5(a)(1)(iii) with 11 CFR 104.5(a)(1), and by replacing the reference to 11 CFR 104.5(a)(1)(i) with 11 CFR 104.5(a)(2)(i).

K. Corrections to 11 CFR 104.9

The Commission is correcting two citations in paragraph (f) of this section by replacing the references to 11 CFR 100.7(b)(22) and 11 CFR 100.8(b)(24) with references to 11 CFR 100.83 and 11 CFR 100.143, respectively. Paragraph (f) requires a candidate's principal campaign committee to report its repayment of any bank loan obtained by the candidate or "loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24)." The cited paragraphs do not, however, describe loans of money derived from advances on candidate brokerage accounts, credit cards, home equity lines of credit, or other lines of credit; instead, they are reserved. In 2002, the Commission moved the relevant provisions from section 100.7(b)(22) to section 100.83 and reserved section 100.7(b)(22), and moved the relevant provisions from section 100.8(b)(24) to section 100.143 and reserved section 100.8(b)(24). See Reorganization of Regulations on "Contribution" and "Expenditure," 67 FR 50582, 50584-85 (Aug. 5, 2002). The references to 11 CFR 100.7(b)(22) and 11 CFR 100.8(b)(24) in section 104.9(f) were not updated to reflect these changes. The Commission is thus making conforming amendments to section 104.9(f) by replacing the reference to 11 CFR 100.7(b)(22) with 11 CFR 100.83, and by replacing the reference to 11 CFR 100.8(b)(24) with 11 CFR 100.143.

L. Correction to 11 CFR 104.14

The Commission is correcting a citation in paragraph (a)(1) of this section by replacing the reference to 11 CFR 109.2 with a reference to 11 CFR 109.10. Paragraph (a)(1) refers to “reports or statements of independent expenditures filed by facsimile machine or electronic mail under 11 CFR 104.4(b) or 11 CFR 109.2.” Section 109.2 does not, however, refer to the filing of reports; instead, it is reserved. In 2003, the Commission moved the reporting requirements for persons other than political committees who make independent expenditures from section 109.2 to section 109.10. See Bipartisan Campaign Reform Act of 2002 Reporting; Coordinated and Independent Expenditures, 68 FR 404, 415 (Jan, 3, 2003). The reference to 11 CFR 109.2 in section 104.14 was not updated to reflect the change. The Commission is thus making a conforming amendment to section 104.14 by replacing the reference to 11 CFR 109.2 with a reference to 11 CFR 109.10.

M. Correction to 11 CFR 110.1

The Commission is correcting a typographical error in a citation in paragraph (a) of this section by replacing the reference to 11 CFR 100.1 with 11 CFR 100.10. Paragraph (a) provides that this section applies to all contributions made by any “person as defined in 11 CFR 100.1.” Section 100.1 does not define “person” for purposes of Commission regulations, however; section 100.10 does.

N. Correction to 11 CFR 111.51

The Commission is correcting the erroneous designation of paragraph (c) of this section by redesignating it as paragraph (b).

O. Correction to 11 CFR 114.12

The Commission is correcting a typographical error in paragraph (c)(1) of this section by replacing “corporation of labor organization” in the first sentence with “corporation or labor organization.”

List of Subjects

11 CFR Part 4

Freedom of information.

11 CFR Part 100

Elections.

11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 104

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

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 111

Administrative practice and procedure, Elections, Law enforcement, Penalties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR chapter I as follows:

PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 552, as amended.

§ 4.8 [Amended]

2. In paragraph (a) of §4.8, remove “§4.6(d)” and add in its place “§4.7(h)”.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

3. The authority citation for part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 434, 438(a)(8), and 439a(c).

4. Revise §100.1 to read as follows:

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 et seq.

5. Revise §100.18 to read as follows:

§ 100.18 Act (2 U.S.C. 431(19))

Act means the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 et seq.

§ 100.29 [Amended]

6. In paragraph (c) introductory text of §100.29, correct the first instance of the word “electioneering” by italicizing it to read “electioneering”.

§ 100.52 [Amended]

7. In § 100.52:

a. In paragraph (a), remove “11 CFR 100.72 and 100.73” and add in its place “11 CFR 100.82 and 100.83”; and

b. In paragraph (b)(5), remove “11 CFR 110.4(a)” and add in its place “11 CFR 110.20”.

§ 100.82 [Amended]

8. In paragraph (f) of §100.82, remove “11 CFR 100.73” and add in its place “11 CFR 100.83”.

§ 100.134 [Amended]

9. In paragraph (d)(2)(iv) of §100.134, remove “26 CFR 1.3402(a)-(1)” and add in its place “26 CFR 31.3402(a)-(1)”.

**PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY
POLITICAL COMMITTEES (2 U.S.C. 433)**

10. The authority citation for part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), and 441(d).

§ 102.9 [Amended]

11. In § 102.9, in paragraph (f), remove “11 CFR 110.1(1)” and add in its place “11 CFR 110.1(l)”, and remove “11 CFR 110.1(1)(5)” and add in its place “11 CFR 110.1(l)(5)”.

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

12. The authority citation for part 104 continues to read as follows:

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

§ 104.5 [Amended]

13. In § 104.5, in paragraph (c)(3)(ii), remove “11 CFR 104.5(a)(1)(ii)” and add in its place “11 CFR 104.5(a)(2)(i)”, and remove “11 CFR 104.5(a)(1)(iii)” and add in its place “11 CFR 104.5(a)(2)(ii)”.

§ 104.6 [Amended]

14. In § 104.6, in paragraph (b), remove “11 CFR 104.5(a)(1)(iii)” and add in its place “11 CFR 104.5(a)(1)”, and remove “11 CFR 104.5(a)(1)(i)” and add in its place “11 CFR 104.5(a)(2)(i)”.

§ 104.9 [Amended]

15. In paragraph (f) of §104.9, remove “11 CFR 100.7(b)(22) and 100.8(b)(24)” and add in its place “11 CFR 100.83 and 100.143”.

§ 104.14 [Amended]

16. In paragraph (a)(1) of §104.14, remove “11 CFR 109.2” and add in its place “11 CFR 109.10”.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

17. The authority citation for part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 434(i)(3), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h, and 36 U.S.C. 510.

§ 110.1 [Amended]

18. In paragraph (a) of §110.1, remove “11 CFR 100.1” and add in its place “11 CFR 100.10”.

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

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

Authority: 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt; 31 U.S.C. 3701, 3711, 3716-3719, and 3720A, as amended; 31 CFR parts 285 and 900-904.

§ 111.51 [Amended]

20. In § 111.51, redesignate paragraph (c) as paragraph (b).

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

21. The authority citation for part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432, 434, 437d(a)(8), 438(a)(8), and 441b.

§ 114.12 [Amended]

22. In the first sentence of paragraph (c)(1) of §114.12, remove “corporation of labor organization” and add in its place “corporation or labor organization”.

On behalf of the Commission,

Lee E. Goodman,
Chairman
Federal Election Commission

DATED: March 20, 2014
BILLING CODE: 6715-01-P

[FR Doc. 2014-06590 Filed 03/25/2014 at 8:45 am; Publication Date: 03/26/2014]