



FEDERAL ELECTION COMMISSION

11 CFR Parts 4, 5, 100, 110, 112, 113, and 300

[NOTICE 2016–14]

Technical Amendments and Corrections

AGENCY: Federal Election Commission.

ACTION: Correcting amendments.

SUMMARY: The Commission is making technical corrections to various sections of its regulations. These are non-substantive amendments to correct typographical errors, update references, and remove provisions that no longer apply.

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

FOR FURTHER INFORMATION CONTACT: 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 Presidential Election Campaign Fund Act, 26 U.S.C. 9001-13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031-42 (collectively, the “Funding Acts”), and the Federal Election Campaign Act, 52 U.S.C. 30101-46 (“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).

Moreover, because these corrections are exempt from the notice and comment procedure of the Administrative Procedure Act under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. See 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA or the Funding Acts. See 52 U.S.C. 30111(d)(1), (4) (providing for congressional review when Commission “prescribe[s]” a “rule of law”); 26 U.S.C. 9009(c)(1), (4), 9039(c)(1), (4) (same). Accordingly, these corrections are effective upon publication in the Federal Register.

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

A. Correction to 11 CFR Chapter I

The Commission has renamed a division within the agency. As a result, throughout 11 CFR chapter I, the Commission is replacing every instance of the phrase “Public Disclosure Division” with the phrase “Public Disclosure and Media Relations Division.”

B. Correction to 11 CFR 100.94

The Commission is correcting a typographical error in paragraph (b) of this section by adding a comma after the word “maintaining”. This comma was inadvertently omitted when the Commission promulgated this paragraph.

C. Correction to 11 CFR 100.155

The Commission is correcting a typographical error in paragraph (b) of this section by adding a comma after the word “creating” and a comma after the word “maintaining”. These commas were inadvertently omitted when the Commission promulgated this paragraph.

D. Correction to 11 CFR 110.6

The Commission is revising paragraphs (c)(2)(i) and (c)(2)(ii)(C) of this section to correctly note the reporting requirements for candidates and authorized committees receiving earmarked contributions from conduits and intermediaries. These paragraphs currently state that candidates and authorized committees are required to report a conduit or intermediary forwarding earmarked contributions which, in the aggregate, exceed \$200 in “any calendar year.” In 1999, however, Congress amended FECA to require that authorized committees aggregate and report all receipts and disbursements by election cycle, rather than by calendar year. Treasury and General Government Appropriations Act of 2000, Pub. L. No. 106–58, sec. 641, 113 Stat. 430, 477 (1999). In 2000, the Commission implemented this legislation by amending § 104.3(c) of its regulations, Election Cycle Reporting by Authorized Committees, 65 FR 42619-21 (July 11, 2000), but inadvertently failed to update paragraphs (c)(2)(i) and (c)(2)(ii)(C) of § 110.6 to conform to the statute and to revised § 104.3. To correct that oversight, the Commission is amending the relevant portions of the text in paragraphs (c)(2)(i) and (c)(2)(ii)(C).

E. Corrections to 11 CFR 113.2

The Commission is removing paragraph (f) of this section because it is no longer applicable. Paragraph (f) describes the “personal use” rules, which concern the permissible non-campaign uses of campaign funds, that applied to Members of Congress serving in the 102d or an earlier Congress. Because this paragraph does not apply to any Members serving in the 103d

or a later Congress, which includes all current and future Members of Congress, the Commission is removing paragraph (f).

F. Corrections to 11 CFR 300.12

The Commission is removing and reserving this section because it contains transitional rules that no longer apply. When the Commission enacted rules concerning the use of non-federal funds in 2002, the Commission also promulgated § 300.12, which outlined how and by what date national committees of political parties were to disburse non-federal funds received before November 6, 2002. Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 FR 49064, 49091-92 (July 29, 2002); see also Bipartisan Campaign Reform Act, Pub. L. No. 107-155, sec. 402, 116 Stat. 81, 112-13 (2002). Since the deadline for the disbursement of these funds has long passed, this section is no longer necessary. Therefore, the Commission is removing and reserving this section. The Commission is also making conforming amendments by removing from § 300.1 two references to § 300.12.

G. Correction to 11 CFR 300.13

For the reasons discussed above regarding the removal of § 300.12, the Commission is also removing paragraphs (b) and (c) of § 300.13. Paragraph (b) directs national party committees to file termination reports disclosing the disposition of funds in non-federal accounts and building fund accounts by January 31, 2003. Paragraph (c) refers to reporting requirements for receipts and disbursements from national party committee non-federal accounts and building fund accounts for activity occurring between November 6 and December 31, 2002.

List of Subjects

11 CFR Part 4

Freedom of information.

11 CFR Part 5

Archives and records.

11 CFR Part 100

Elections.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 112

Administrative practice and procedure, Elections.

11 CFR Part 113

Campaign funds, Political candidates.

11 CFR Part 300

Campaign funds, Nonprofit organizations, Political committees and parties, Political candidates.

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.

§ 4.1 [Amended]

2. Amend paragraph (f) of § 4.1 to remove “Public Disclosure Division” and add, in its place, “Public Disclosure and Media Relations Division”.

Part 5 – Access to Public Disclosure and Media Relations Division Documents

3. The authority citation for part 5 continues to read as follows:

Authority: 52 U.S.C. 30108(d), 30109(a)(4)(B)(ii), 30111(a); 31 U.S.C. 9701.

4. Revise the heading of part 5 to read as set forth above.

§ 5.1 [Amended]

5. Amend paragraph (f) of § 5.1 to remove “Public Disclosure Division” and add, in its place, “Public Disclosure and Media Relations Division”.

§ 5.4 [Amended]

6. Amend § 5.4 in paragraphs (a) introductory text and (c) by removing “Public Disclosure Division” and adding, in its place, “Public Disclosure and Media Relations Division”.

§ 5.5 [Amended]

7. Amend § 5.5 in paragraphs (a) and (c) by removing “Public Disclosure Division” and adding, in its place, “Public Disclosure and Media Relations Division”.

Part 100 – Scope and Definitions (52 U.S.C. 30101)

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

Authority: 52 U.S.C. 30101, 30104, 30111(a)(8), and 30114(c).

§ 100.94 [Amended]

9. Amend paragraph (b) of §100.94 to add a comma after the word “maintaining”.

§ 100.155 [Amended]

10. Amend paragraph (b) of §100.155 to add a comma after the word “creating” and a comma after the word “maintaining”.

Part 110 – Contribution and Expenditure Limitations and Prohibitions

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

Authority: 52 U.S.C. 30101(8), 30101(9), 30102(c)(2), 30104(i)(3), 30111(a)(8), 30116, 30118, 30120, 30121, 30122, 30123, 30124, and 36 U.S.C. 510.

§ 110.6 [Amended]

12. Amend § 110.6 in paragraphs (c)(2)(i) and (c)(2)(ii)(C) by removing “calendar year” and adding, in its place, “election cycle”.

Part 112 – Advisory Opinions (52 U.S.C. 30108)

13. The authority citation for part 112 continues to read as follows:

Authority: 52 U.S.C. 30108, 30111(a)(8).

§ 112.2 [Amended]

14. Amend paragraph (b) of § 112.2 to remove “Public Disclosure Division” and add, in its place, “Public Disclosure and Media Relations Division”.

Part 113 – Permitted and Prohibited Uses of Campaign Accounts

15. The authority citation for part 113 continues to read as follows:

Authority: 52 U.S.C. 30102(h), 30111(a)(8), 30114, and 30116.

§ 113.2 [Amended]

16. Remove paragraph (f) of § 113.2 and redesignate paragraph (g) as paragraph (f).

Part 300 – Non-Federal Funds

17. The authority citation for part 300 continues to read as follows:

Authority: 52 U.S.C. 30104(e), 30111(a)(8), 30116(a), 30125, and 30143.

§ 300.1 [Amended]

18. Amend § 300.1 as follows:

- a. In paragraph (b)(1), remove the last sentence.
- b. In paragraph (c)(1), remove the phrase “transition rules as BCRA takes effect,”.

§ 300.12 [Removed and Reserved]

19. Remove and reserve § 300.12.

§ 300.13 [Amended]

20. Amend § 300.13 as follows:

- a. Remove paragraphs (b) and (c).
- c. Redesignate paragraph (a) as an undesignated paragraph and remove the paragraph heading.

On behalf of the Commission,

Matthew S. Petersen,
Chairman,
Federal Election Commission.

Dated: December 12, 2016.

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