



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

2016 DEC -7 PM 5:26

December 7, 2016

**MEMORANDUM**

TO: The Commission

FROM: Lisa J. Stevenson *LJS by AN*  
Acting General Counsel

Adav Noti *AN*  
Associate General Counsel

Robert M. Knop *RMK*  
Assistant General Counsel

Eugene J. Lynch *EJL by RMK*  
Paralegal

SUBJECT: Draft Final Rules and E&J for REG 2016-04 (Technical Amendments to 2016 CFR)

Attached is a draft Final Rules and E&J for REG 2016-04 (Technical Amendments to 2016 CFR). We request that this draft be placed on the agenda for December 8, 2016.

Attachment

**AGENDA ITEM**

For Meeting of 12-8-16

**SUBMITTED LATE**

**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.

**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 100.155**

The Commission is correcting a typographical error in paragraph (b) of this section by adding a comma after the word “creating.” This comma, which appears in the parallel provision at 11 CFR 100.94, was inadvertently omitted when the Commission promulgated this paragraph.

### **C. 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

1 candidates and authorized committees are required to report a conduit or intermediary  
2 forwarding earmarked contributions which, in the aggregate, exceed \$200 in “any calendar  
3 year.” In 1999, however, Congress amended FECA to require that authorized committees  
4 aggregate and report all receipts and disbursements by election cycle, rather than by calendar  
5 year. Treasury and General Government Appropriations Act of 2000, Pub. L. No. 106–58, sec.  
6 641, 113 Stat. 430, 477 (1999). In 2000, the Commission implemented this legislation by  
7 amending section 104.3(c) of its regulations, Election Cycle Reporting by Authorized  
8 Committees, 65 FR 42619-21 (July 11, 2000), but inadvertently failed to update paragraphs  
9 (c)(2)(i) and (c)(2)(ii)(C) of section 110.6 to conform to the statute and to revised section 104.3.  
10 To correct that oversight, the Commission is amending the relevant portions of the text in  
11 paragraphs (c)(2)(i) and (c)(2)(ii)(C).

12 D. Corrections to 11 CFR 113.2

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

19 E. Corrections to 11 CFR 300.12

20 The Commission is removing and reserving this section because it contains transitional  
21 rules that no longer apply. When the Commission enacted rules concerning the use of non-  
22 federal funds in 2002, the Commission also promulgated section 300.12, which outlined how and  
23 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, § 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 section 300.1 two references to section 300.12.

F. Correction to 11 CFR 300.13

For the reasons discussed above regarding the removal of section 300.12, the Commission is also removing paragraph (c) of section 300.13, which 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

DRAFT

1 Campaign funds, Political candidates.

2 11 CFR Part 300

3 Campaign funds, Nonprofit organizations, Political committees and parties, Political  
4  
5 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 part heading to read as shown 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. In § 5.4:

a. Amend paragraph (a) to remove “Public Disclosure Division” and add, in its place, “Public Disclosure and Media Relations Division”.

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

**§ 5.5 [Amended]**

7. In § 5.5:

a. Amend paragraph (a) to remove “Public Disclosure Division” and add, in its place, “Public Disclosure and Media Relations Division”.

b. Amend paragraph (c) to remove “Public Disclosure Division” and add, 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).

**§ 100.155 [Amended]**

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

**Part 110 – Contribution and expenditure limitations and prohibitions**

10. 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]**

11. Amend paragraph (c)(2)(i) to remove “calendar year” and add, in its place, “election cycle”.

12. Amend paragraph (c)(2)(ii)(C) to remove “calendar year” and add, in its place, “election cycle”.

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

13. The authority citation for part 113 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. In paragraph (b)(1) of § 300.1, remove the last sentence.

19. In paragraph (c)(1) of § 300.1, remove the phrase “transition rules as BCRA takes effect,”.

**§ 300.12 [Removed and Reserved]**

20. Remove and reserve § 300.12.

**§ 300.13 [Amended]**

21. Remove paragraph (c) of § 300.13.

On behalf of the Commission,

Matthew S. Petersen,  
Chairman,  
Federal Election Commission.

DATED: \_\_\_\_\_