

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1983-5]

Disclaimer Notices**AGENCY:** Federal Election Commission.**ACTION:** Transmittal of regulations to Congress.

SUMMARY: FEC regulations at 11 CFR 110.11 governing the inclusion of disclaimer notices in political communications and advertising have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). The revisions clarify the Act's requirements for the use of disclaimers on solicitations and on communications expressly advocating the election or defeat of a clearly identified candidate. Further information on the precise changes made is contained in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463, (202) 523-4143 or (800) 424-8530.

SUPPLEMENTARY INFORMATION: The revisions are based upon the Commission's experience in administering 2 U.S.C. 441d and on public comment received in response to the Commission's Notice of Proposed Rulemaking (47 FR 3796; January 27, 1982).

2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulations within 30 legislative days of their transmittal, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on February 25, 1983.

Explanation and Justification for 11 CFR 110.11(a)

The Commission has revised subsection (a) of 11 CFR 110.11 to address several issues that have arisen concerning the current regulation. Overall, the language of this subsection has been redrafted to more closely follow 2 U.S.C. 441d.

Subsection (a)(1) has been revised to more clearly indicate that all communications that expressly advocate the election or defeat of a candidate or that solicit contributions must contain a disclaimer if they are made through a form of general public political advertising. References to posters and yard signs have been included in the list of media which trigger the notice requirement. In addition, the last sentence of this subsection now requires that the disclaimer appear on the front face of communications, such as those on billboards, that only have a front side viewed by the public.

Subsections (a)(1)(i) and (ii) generally follow 2 U.S.C. 441d(a)(1) and (2). Subsection (a)(1)(iii) has been redrafted to more closely follow 2 U.S.C. 441d(a)(3).

Subsection (a)(1)(iv) has been revised to contain two subsections. Subsection (A) now covers solicitations directed to the general public made on behalf of a political committee that is not a candidate's authorized committee. Subsection (B) exempts solicitations by a separate segregated fund from the disclaimer notice requirement when the solicitation is for contributions to the separate segregated fund. This latter provision incorporates into the regulations the Commission's opinion in Advisory Opinion 1980-71.

A new second sentence has been added to subsection (a)(2), exempting communications made using means on which inclusion of a disclaimer would be impracticable. Examples of such means are skywriting and watertowers.

The Commission notes that 2 U.S.C. 435(b), which required committees to include a notice on all literature and advertising stating that a copy of the committee's reports were on file with and available from the Commission, was repealed by Congress in the 1979 Amendments to the Federal Election Campaign Act, effective January 8, 1980. Pub. L. 96-187.