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FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 110, and 113

[Notice 2004–16]

Technical Amendments to Bipartisan Campaign Reform Act ("BCRA") Rules and Explanation and Justification

AGENCY: Federal Election Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Commission is making technical amendments to correct certain citations and headings in the BCRA final rules governing the definitions of "contribution" and "expenditure," personal use of campaign funds, and reporting. Corrections are also being made to the explanation and justification for the BCRA rules on disclaimers and personal use of campaign funds. Further information is provided in the supplementary information that follows.

DATES: *Effective Date:* November 24, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Brad C. Deutsch, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The final rules and the explanation and justification that are the subject of these corrections were published as part of a continuing series of regulations the Commission promulgated implementing the Bipartisan Campaign Reform Act of 2002 (Pub. L. 107–155, 116 Stat. 81 (March 27, 2002)) ("BCRA"). Because these corrections are merely technical and nonsubstantive, they are not a substantive rule requiring notice and comment under the Administrative Procedure Act, 5 U.S.C. 553. Under the "good cause" exception to the notice and comment requirements, 5 U.S.C.

553(b)(B) and 553(d)(3), the final rules are effective upon publication. Thus the corrected final rules are effective November 24, 2004.

I. Corrections to BCRA Rules in Title 11 of the Code of Federal Regulations

A. Correction to 11 CFR 100.77

The Commission is correcting two citations containing typographical errors in this section. Specifically, the references to §§ 100.65 and 100.66 were erroneous and are being changed to §§ 100.75 and 100.76, respectively.

B. Correction to 11 CFR 100.89

The Commission is correcting the title of this section. Specifically, a parenthetical contained in the title erroneously referred to a "'coattails' exception." This parenthetical is being removed.

C. Correction to 11 CFR 100.149

The Commission is correcting the title of this section. Specifically, a parenthetical contained in the title erroneously referred to a "'coattails' exception." This parenthetical is being removed.

D. Correction to 11 CFR 104.5

The Commission is correcting two citations containing typographical errors in section 104.5(c)(3)(ii). Specifically, the references to paragraphs (a)(1)(i) and (a)(1)(ii) were erroneous and are being changed to paragraphs (a)(1)(ii) and (a)(1)(iii), respectively.

E. Correction to 11 CFR Part 113

The title to 11 CFR part 113 is also being corrected. On December 13, 2002, the title of 11 CFR part 113 was changed to reflect the new post-BCRA regulations therein, *i.e.*, "Use of Campaign Accounts for Non-Campaign Purposes." 67 FR 76962. However, on December 26, 2002, the title of part 113 was inadvertently changed back to its pre-BCRA wording, *i.e.*, "Excess Campaign Funds and Funds Donated to Support Federal Officeholder Activities." Accordingly, the Commission is now restoring the correct wording of the title.

II. Corrections to BCRA Explanation and Justification Regarding Disclaimers and Personal Use of Campaign Funds

The Commission published a document in the **Federal Register** of December 13, 2002, at 67 FR 76962,

containing final rules relating to disclaimers, fraudulent solicitations, civil penalties, and personal use of campaign funds. The portions of the explanation and justification regarding disclaimers and personal use of campaign funds contained (1) an instance of erroneous language, (2) an erroneous reference and (3) an erroneous omission, each of which is being corrected, as discussed below.

A. Correction to Explanation and Justification for 11 CFR 110.11—Communications; Advertising; Disclaimers

The published explanation and justification for 11 CFR 110.11(c)(4), concerning radio and television communications, mistakenly included two sentences referring to a disclaimer for communications transmitted through a telephone bank. See 67 FR at 76967. Accordingly, these sentences are being removed.

Specifically, on page 76967, 67 FR at 76967, second column, the following two sentences are being removed from lines twenty-four through thirty-four: "Paragraph (c)(4) also requires that communications transmitted through a telephone bank, as defined in 11 CFR 100.28, carry the same statement. See discussion regarding the inclusion of telephone banks within the term 'public communication,' above, and the discussion of specific requirements for radio, telephone bank, and television communications authorized by candidates, above."

B. Correction to Explanation and Justification for 11 CFR Part 113—Use of Campaign Accounts for Non-Campaign Purposes

Two corrections to the published explanation and justification for 11 CFR part 113 are necessary.

First, the published explanation and justification erroneously referred to a portion of the pre-BCRA title of part 113 in describing the title change being effected in the corresponding regulations. See 67 FR at 76971. Accordingly, the reference to the title of part 113 is being corrected to reflect the post-BCRA wording. Specifically, on page 76971, first column, lines nineteen through twenty-one, the reference to "Campaign Funds and Funds Donated to Support Federal Officeholder Activities" is being corrected to read

“Use of Campaign Accounts for Non-Campaign Purposes.”

Second, although the text of the explanation and justification approved by the Commission stated that “Authorized committees may not make contributions * * *” (emphasis added), the published explanation and justification erroneously omitted the word “not” from this sentence. See 67 FR at 76975. Accordingly, this sentence is being corrected to include the omitted word.

Specifically, on page 76975, second column, lines three through ten, the sentence “Authorized committees may make contributions to organizations other than those described in section 170(c) of the Internal Revenue Code of 1986 and other authorized committees (subject to the \$1,000 limit) unless those contributions are in connection with the campaign for Federal office of the authorizing candidate” is being corrected to read “Authorized committees may not make contributions to organizations other than those described in section 170(c) of the Internal Revenue Code of 1986 and other authorized committees (subject to the \$1,000 limit) unless those contributions are in connection with the campaign for Federal office of the authorizing candidate.”

Correction of Publication

In FR Doc 02–31521, published on December 13, 2002 (67 FR 76962), make the following corrections.

1. On page 76967, in the second column, in line twenty-four, remove “Paragraph (c)(4) also requires that communications transmitted through a telephone bank, as defined in 11 CFR 100.28, carry the same statement. See discussion regarding the inclusion of telephone banks within the term “public communication,” above, and the discussion of specific requirements for radio, telephone bank, and television communications authorized by candidates, above.”

2. On page 76971, in the first column, in line nineteen remove “Campaign Funds and Funds Donated to Support Federal Officeholder Activities” and add “Use of Campaign Accounts for Non-Campaign Purposes” in its place.

3. On page 76975, in the second column, in line three remove “Authorized committees may make contributions to organizations other than those described in section 170(c) of the Internal Revenue Code of 1986 and other authorized committees (subject to the \$1,000 limit) unless those contributions are in connection with the campaign for Federal office of the authorizing candidate” and add “Authorized committees may not make contributions to organizations other than those described in section 170(c) of the Internal Revenue Code of 1986 and

other authorized committees (subject to the \$1,000 limit) unless those contributions are in connection with the campaign for Federal office of the authorizing candidate” in its place.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, political committees and parties, reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, and political committees and parties.

11 CFR Part 113

Campaign funds.

■ For the reasons set out in the preamble, subchapter A of chapter I of title II of the Code of Federal Regulations is amended as follows:

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

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

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

■ 2. In the table below, for each section indicated in the left column, remove the citation indicated in the middle column, and replace it with the citation indicated in the right column:

Section	Remove	Add
100.77	100.65	100.75
100.77	100.66	100.76

■ 3. Section 100.89 is amended by revising the heading to read as follows:

§ 100.89 Voter registration and get-out-the-vote activities for Presidential candidates.

* * * * *

■ 4. Section 100.149 is amended by revising the heading to read as follows:

§ 100.149 Voter registration and get-out-the-vote activities for Presidential candidates.

* * * * *

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

■ 5. 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.

■ 6. In the table below, for each section indicated in the left column, remove the citation indicated in the middle column, and replace it with the citation indicated in the right column:

Section	Remove	Add
104.5(c)(3)(ii)	104.5(a)(1)(i)	104.5(a)(1)(ii)
104.5(c)(3)(ii)	104.5(a)(1)(ii)	104.5(a)(1)(iii)

PART 113—USE OF CAMPAIGN ACCOUNTS FOR NON-CAMPAIGN PURPOSES

■ 7. Part 113 is amended by revising the heading to read as set forth above.

■ 8. The authority for part 113 continues to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

Dated: November 19, 2004.

Bradley A. Smith,

Chairman, Federal Election Commission.

[FR Doc. 04–26042 Filed 11–23–04; 8:45 am]

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