FEDERAL ELECTION COMMISSION

[Notice 1995-13]

11 CFR Parts 100, 106, 109 and 114

Express Advocacy; Independent Expenditures; Corporation and Labor Organization Expenditures

AGENCY: Federal Election Commission. **ACTION:** Final rules; Announcement of Effective Date.

SUMMARY: On July 6, 1995, the Commission published the text of revised regulations defining the term "express advocacy" and describing certain nonprofit corporations that are exempt from the prohibition on independent expenditures. 60 FR 35292. These regulations implement portions of the Federal Election Campaign Act of 1971, as amended. The Commission announces that the rules are effective as of October 5, 1995.

EFFECTIVE DATE: October 5, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Today, the Commission is announcing the effective date of new regulations defining the term "express advocacy" and describing certain nonprofit corporations that are exempt from the prohibition on independent expenditures. The new rules are being incorporated into parts 100, 106, 109 and 114 of the existing regulations.

Section 438(d) of Title 2, United States Code requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 30, 1995. Thirty legislative days expired in the House of Representatives on September 21, 1995. Thirty legislative days expired in the Senate on September 8, 1995.

Announcement of Effective Date: 11 CFR 100.17, 100.22, 106.1(d), 109.1(b)(1), (2) and (3), 114.2(b) and 114.10, as published at 60 FR 35292 (July 6, 1995), are effective as of October 5, 1995.

Dated: September 29, 1995.
Danny L. McDonald,
Chairman, Federal Election Commission.
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BILLING CODE 6715–01–M

11 CFR Part 110

[Notice 1995-14]

Communications Disclaimer Requirements

AGENCY: Federal Election Commission. **ACTION:** Final rule and transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission has revised its regulations that govern disclaimers on campaign communications. The revisions clarify how these rules apply to coordinated party expenditures; broadly define direct mail" in this context; require a statement of who paid for a covered communication, the cost of which is exempt from the Federal Election Campaign Act's contribution and expenditure limits; require a disclaimer on all communications included in a package of materials that are intended for separate distribution; and clarify the meaning of "clear and conspicuous" as that term is used in these rules.

DATES: Further action, including the publication of a document in the Federal Register announcing the effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act ["FECA" or "the Act"] at 2 U.S.C. 441d(a) requires a disclaimer on communications by any person that expressly advocate the election or defeat of a clearly identified federal candidate, or solicit contributions, through any form of general public political advertising. The Commission is revising the implementing regulations, which are found at 11 CFR 110.00, to address issues that have arisen since the rules were last amended, and to clarify their scope and applicability.

The Commission published a Notice of Proposed Rulemaking ["Notice" or "NPRM"] on proposed amendments to the disclaimer rules on October 5, 1994. 59 FR 50708. Comments in response to this Notice were received from Robert Alan Dahl; the Democratic National Committee; a joint comment from the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee; the Internal Revenue Service; the National Association of Broadcasters; the Ohio Right to Life Political Action

Committee; United States Representative Carolyn B. Maloney; United States Representative Thomas E. Petri; and Wilson Communication Services. The Commission held a public hearing on March 8, 1995, at which five witnesses presented testimony on the issues addressed in the NPRM.

Section 438(d) of Title 2, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of the FECA be transmitted to the Speaker of the House of Representatives and the President of the Senate for a 30 legislative day review period before they are finally promulgated. These regulations were transmitted to Congress on October 2, 1995.

Explanation and Justification

The FECA at 2 U.S.C. 441d(a) requires disclaimers on communications by any person that expressly advocate the election or defeat of a clearly identified federal candidate, or solicit contributions, through any form of general public political advertising. In most instances the disclaimer must state both who paid for the communication and whether it was authorized by any candidate or authorized committee.

A primary purpose of this rulemaking was to simplify the implementing regulations to this statutory requirement. A number of revisions have accordingly been made, to clarify their scope and applicability. However, after reviewing the comments and testimony presented at the hearing, the Commission has determined that its present regulation is in most instances the most reasonable alternative at this time. A detailed analysis of the new and revised provisions appears below.

Please note that these revisions are limited to 11 CFR 110.11(a). Paragraph 110.11(b), which deals with newspaper and magazine charges for campaign advertisements, has not been amended.

Part 110—Contribution and Expenditure Limitations and Prohibitions

Section 110.11 Communications; Advertising

General Requirements

The language of former paragraph (a)(1) has largely been retained. However, the last sentence of the former paragraph (a)(1), which deals with placement of the disclaimer, and former paragraph (a)(1)(iv)(B), solicitations by separate segregated funds ["SSF"], have been moved to new paragraphs (a)(5)(i) and (a)(7), respectively.

The NPRM sought comments on a number of different approaches,