Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2007–14]

Federal Election Activity and Non-Federal Elections

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed revisions to the definition of the phrase ''in connection with an election in which a candidate for Federal office appears on the ballot.'' This phrase is part of the definition of ''Federal election activity'' (''FEA'') and is used to determine whether voter identification, get-out-the-vote activity, and generic campaign activities are FEA, subject to certain funding limits and prohibitions under the Federal Election Campaign Act of 1971 (''FECA''). The proposed rule would make permanent, with certain minor revisions, an Interim Final Rule that excluded from FEA certain voter identification and get-out-the-vote activities conducted exclusively for non-Federal elections. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before July 9, 2007.

ADDRESSES: All comments must be in writing, must be addressed to Mr. Ron B. Katwan, Assistant General Counsel, and must be submitted in e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail or fax to ensure timely receipt and consideration. E-mail comments must be sent to *fea.nonfederal@fec.gov*. If e-mail comments include an attachment, the attachment must be in Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper copy comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Mr. Ron B. Katwan, Assistant General Counsel, or Ms. Margaret G. Perl, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

I. Background

The Bipartisan Campaign Reform Act of 2002, Public Law 107–155, 116 Stat. 81 (2002) (''BCRA''), amended FECA by adding a new term, ''Federal election activity,'' to describe certain activities that State, district, and local party committees must pay for with either Federal funds or a combination of Federal and Levin funds.[1] *See* 2 U.S.C. 431(20) and 441i(b)(1). The FEA requirements apply to all State, district, and local party committees and organizations, regardless of whether they are registered as political committees with the Commission. The term also affects fundraising on behalf of tax-exempt organizations.[2]

A. FEA Statutory and Regulatory Provisions

BCRA specifies that voter identification, get-out-the-vote activity (''GOTV activity''), and generic campaign activity (collectively ''Type II FEA'') [3] constitute FEA only when these activities are conducted ''in connection with an election in which a candidate for Federal office appears on the ballot.'' 2 U.S.C. 431(20)(A)(ii). Commission regulations define ''in connection with an election in which a candidate for Federal office appears on the ballot'' as the period of time beginning on the earliest filing deadline for access to the primary election ballot for Federal candidates in each particular State, and ending on the date of the general election, up to and including any runoff date. *See* 11 CFR 100.24(a)(1)(i). For States that do not hold primary elections, the period begins on January 1 of each even-numbered year. *Id.* For special elections in which Federal candidates are on the ballot, the period begins when the date of the special election is set and ends on the date of the special election. *See* 11 CFR 100.24(a)(1)(ii).

Certain activities by State, district and local parties are exempt from the definition of FEA by BCRA and Commission regulations. *See* 2 U.S.C. 431(20)(B); 11 CFR 100.24(c). One of these exceptions covers public communications that refer solely to State or local candidates and do not promote, support, attack or oppose a Federal candidate, as long as these communications do not constitute voter registration, voter identification or GOTV activity. *See* 2 U.S.C. 431(20)(B)(i); 11 CFR 100.24(c)(1). Costs of traditional ''grassroots campaign materials'' such as buttons, bumper stickers, yard signs and posters that name only State or local candidates are also excluded from the definition of FEA. *See* 2 U.S.C. 431(20)(B)(iv); 11 CFR 100.24(c)(4).

B. Interim Final Rule for Voter Identification and GOTV Activities Connected to Non-Federal Elections

One of the principal sponsors of BCRA described its FEA provisions as ''a balanced approach which addresses the very real danger that Federal contribution limits could be evaded by diverting funds to State and local parties,'' while ''not attempt[ing] to regulate State and local party spending where this danger is not present, and where State and local parties engage in purely non-Federal activities.'' 148 Cong. Rec. S2138 (daily ed. Mar. 20, 2002) (statement of Sen. McCain). Because Type II FEA is limited to activities in connection with an election

[1] ''Federal funds'' are funds subject to the limitations, prohibitions, and reporting requirements of the Act. *See* 11 CFR 300.2(g). ''Levin funds'' are funds raised by State, district, and local party committees pursuant to the restrictions in 11 CFR 300.31 and disbursed subject to the restrictions in 11 CFR 300.32. *See* 11 CFR 300.2(i).

[2] National, State, district, and local party committees are prohibited from soliciting or directing non-Federal funds to tax-exempt entities organized under 26 U.S.C. 501(c) that engage in FEA or make other disbursements or expenditures in connection with a Federal election. *See* 2 U.S.C. 441i(d)(1). Also, Federal candidates and officeholders may make only limited solicitations for funds on behalf of tax-exempt entities organized under 26 U.S.C. 501(c) whose principal purpose is to conduct certain types of FEA. *See* 2 U.S.C. 441i(e)(4).

[3] Commission regulations specifically define each kind of Type II FEA activity. *See* 11 CFR 100.24(a)(3) (GOTV activity), 100.24(a)(4) (voter identification), 100.25 (generic campaign activity).

in which a Federal candidate is on the ballot, the Commission interprets the FEA provisions of BCRA as not regulating voter identification and GOTV activities by State, district, and local political party committees and certain other groups that are exclusively in connection with non-Federal elections.

Some municipalities, counties, and States conduct entirely separate non-Federal elections in even-numbered years that fall within the Type II FEA time periods based on Federal elections held later that year.[4] The Type II FEA time period in some States begins almost a year before the general election, and the start date of this period is likely to extend even farther back into odd-numbered years as many States move up Presidential primaries into the first few months of the Presidential election year. Thus, the potential also exists for more activity by State, district and local parties connected to non-Federal elections held in odd-numbered years to be swept into the FEA restrictions based on the Type II FEA time periods.[5] The effects of the timing of the Type II FEA time period is compounded by recent revisions to the FEA definitions of ''GOTV activity'' and ''voter identification,'' which bring non-partisan associations of local candidates within the FEA funding requirements if their activity targets their local election and occurs within the Type II FEA time period. *See Final Rules on the Definition of Federal Election Activity,* 71 FR 8926, 8931 (Feb. 22, 2006) (''*2006 FEA Final Rules*'').[6]

In light of these considerations, the Commission published an Interim Final Rule on March 22, 2006 refining the definition of ''in connection with an election in which a candidate for Federal office appears on the ballot'' to specify when activities and communications are in connection with a *non-Federal* election, instead of a Federal election, and are therefore not Type II FEA. *See Interim Final Rule Regarding Definition of Federal Election Activity,* 71 FR 14357 (Mar. 22, 2006) (''*Interim Final Rule*'').[7] The Interim Final Rule added new paragraph (a)(1)(iii) to 11 CFR 100.24 to ''ensure[] that the FEA requirements do not extend to activities that are solely in connection with these upcoming non-Federal elections and are therefore beyond the scope of FECA.'' *See Interim Final Rule,* 71 FR at 14357. New section 100.24(a)(1)(iii) exempts ''any activity or communication that is in connection with a non-Federal election that is held on a date separate from a date of any Federal election'' and that refers exclusively to: (1) Non-Federal candidates participating in the non-Federal election, provided the non-Federal candidates are not also Federal candidates; (2) ballot referenda or initiatives scheduled for the date of the non-Federal election; or (3) the date, polling hours and locations of the non-Federal election. *See* 11 CFR 100.24(a)(1)(iii)(A)(1)–(3); *Interim Final Rule,* 71 FR at 14359–60.

This rule was promulgated as an Interim Final Rule and expires on September 1, 2007. *See* 11 CFR 100.24(a)(1)(iii)(B); *Interim Final Rule*, 71 FR at 14358. The Commission sought public comment on the Interim Final Rule, and received two comments. The comments are available at *http://www.fec.gov/law/law_rulemakings.shtml* under the heading ''Definition of Federal Election Activity.''

II. Proposed Revisions to 11 CFR 100.24(a)(1)—Type II FEA Time Periods

The proposed rule would make permanent section 100.24(a)(1)(iii) as added by the Interim Final Rule (with some stylistic and technical changes explained below). The Commission seeks public comment on whether non-Federal candidates and State, district or local party committees conducted voter identification and GOTV activities under the exemption in the Interim Final Rule in the 2006 election cycle, and invites commenters to suggest modifications of the proposed rule based on their experience, if any, with the Interim Final Rule. Would such a rule exclude ''purely non-Federal'' voter identification and GOTV activities by State, district and local committees? Would such a rule be consistent with Congressional intent?

A. Proposed 11 CFR 100.24(a)(1)(iii)—Activities Solely in Connection With Certain Non-Federal Elections

First, the proposed rule provides that voter identification or GOTV activities that are ''*solely* in connection with a non-Federal election held on a date separate from any Federal election'' are exempt from Type II FEA. *See* proposed 11 CFR 100.24(a)(1)(iii) (emphasis added). For example, a GOTV program offering to transport voters to the polls on the day of an exclusively non-Federal election would be eligible for the proposed exemption. However, a voter identification program collecting information both about voters' preferences in a non-Federal election in March and a Federal primary election in April would not qualify. Thus, the proposed rule would not exclude all activities by State, district and local parties in the weeks (or months) between the start of the Type II FEA time period and a non-Federal election. The Commission seeks comment on this approach.

In addition, the proposed rule would only apply if the non-Federal election were held on a wholly separate date from any Federal election. *See* proposed 11 CFR 100.24(a)(1)(iii). This proposed rule is based on the premise that this voter identification and GOTV activity for non-Federal elections held on a different date from any Federal election will have no effect on previous or subsequent Federal elections. The Commission intends the proposed exemption to be narrowly tailored and not to apply to activities that are also in connection with a Federal election.[8] For example, if a GOTV communication provides the date of a non-Federal election and offers transportation to voters for such a non-Federal election, is it likely that such activity would have any effect on voter turnout for a Federal election held on a separate, and perhaps much later, date? The Commission seeks comments, especially in the form of empirical data, on whether voter identification and GOTV efforts in connection with a non-Federal election have a measurable effect on voter turnout in a subsequent Federal election, or otherwise confer benefits on

[4] *See, e.g., http://www.sbe.virginia.gov/cms/documents/06_10Calendar.pdf* (Virginia municipal elections); *http://www.state.tn.us/sos/election/2008%20ElectionScheduleevdatesandreg.pdf* (Tennessee county elections); *http://elections.state.wi.us/docview.asp?docid=2924&locid=47* (Wisconsin county and judicial elections); *http://www.lavote.net/VOTER/PDFS/SCHEDULED_ELECTIONS_2008.pdf* (LA County municipal elections).

[5] *See, e.g., http://www.sbe.virginia.gov/cms/documents/06_10Calendar.pdf* (Virginia state-wide election); *http://elect.ky.gov/NR/rdonlyres/F98ADBAA–79E2–4D25–AA35–A85ABB921BEC/0/electionschedule.pdf* (Kentucky state-wide officer election); *http://vote.nyc.ny.us/electioncalendar.html* (New York City election); *http://www.usmayors.org/uscm/elections/electioncitiesfall2007.pdf* (various municipal elections).

[6] The district court ruling in *Shays* v. *FEC,* 337 F. Supp. 2d 28 (D.D.C. 2004), *aff'd,* 414 F.3d 76 (D.C. Cir. 2005), required certain changes to the rules defining GOTV activity and voter identification activity at 11 CFR 100.24(a)(3) and (a)(4).

[7] A proposed exception to the Type II FEA time periods for activity in the time period leading up to a municipal election was included in the proposed rules but was not adopted. *See Notice of Proposed Rulemaking on the Definition of Federal Election Activity,* 70 FR 23068, 23071–72 (May 4, 2005).

[8] The Interim Final Rule did not include the word ''solely,'' but explained that ''[a]ny activity that is also in connection with a Federal election renders the interim final rule inapplicable.'' *Interim Final Rule,* 71 FR at 14359–60.

Federal candidates. Are there any relevant data from the 2006 elections to indicate whether activities conducted under the interim rule had any effect on turnout in 2006 Federal elections?

Should the exemption take into account the proximity of the next Federal election? For example, should the rule distinguish between situations where the next Federal election is only six days later, as opposed to six months?

The proposed exemption would not extend to any activities conducted in connection with a non-Federal election held on the same date as a Federal election, even if the activity does not refer to any Federal candidates. Are there certain conditions under which an activity in connection with a non-Federal election held on the same date as a Federal election should also be exempted from the Type II FEA time periods? For example, should the proposed rule apply if both elections were held at the same polling sites but used separate ballots?

B. Proposed 11 CFR 100.24(a)(1)(iii)(A)–(C)—Content of Voter Identification and GOTV Communications

The final requirement to be eligible for the proposed exemption is that the voter identification or GOTV activity must involve a communication that refers exclusively to one or more of the following: (1) The non-Federal candidates on the non-Federal election ballot who are not also Federal candidates; (2) ballot initiatives or referenda included in the non-Federal election; or (3) the date, times, or polling locations of the non-Federal election.[9] *See* proposed 11 CFR 100.24(a)(1)(iii)(A)–(C). This proposed requirement implements proposed section 100.24(a)(1)(iii)'s general restriction that the voter identification or GOTV activity be solely in connection with the non-Federal election. The proposed rule's formulation is also consistent with statutory exclusions from the definition of FEA that are limited to certain types of activity that refer only to State or local candidates, as discussed above. *See* 2 U.S.C. 431(20)(B)(i) and (iv); 11 CFR 100.24(c)(1) and (4). Should the ballot initiative prong be limited to ballot issues that have no impact on Federal elections?

The Commission seeks comments on whether this proposed list of subjects in proposed section 100.24(a)(1)(iii)(A) through (C) should be expanded or narrowed. Should the Commission require that communications include a reference to the date of the non-Federal election for the proposed exemption to apply? Should the exception be expanded to include communications discussing specific issues that are exclusively a state or local concern? Should ''the date, polling hours, or polling locations of the non-Federal election'' be defined to include absentee ballot or vote-by-mail information?

With respect to candidate references, the proposed rule would specify that if a non-Federal candidate is also seeking Federal office and satisfies FECA's definition of ''candidate,'' then the proposed exemption would not apply. *See* proposed 11 CFR 100.24(a)(1)(iii)(A). The proposed rule would apply to communications containing specific references to non-Federal candidates by name, nickname, photograph or other likeness, as well as to general references to non-Federal candidates by party. For example, assuming that the non-Federal election is held on a date separate from a Federal election, a GOTV phone bank that urges voters to vote for ''Smith for Mayor'' and that also refers to ''the great Democratic team'' would qualify under the proposed rule. The proposed exemption would also apply to a communication that otherwise meets the definition of GOTV [10] if such a communication also includes language such as ''Vote Republican on May 5'' even though no individual non-Federal candidate is mentioned by name, because it refers exclusively to non-Federal candidates on the ballot on the date of the non-Federal election. The Commission seeks comment on this approach. Moreover, should the exception be limited to cover only references to clearly identified non-Federal candidates?

With regard to references to the date or the polling hours or the polling locations of the non-Federal election, this proposed rule would revise the Interim Final Rule to clarify that it is not necessary to include all three categories of information in order to qualify for the proposed exemption. For example, a GOTV communication that refers only the date of the non-Federal election without any information regarding polling hours or locations would satisfy this proposed requirement. The Commission seeks comment on this approach.

C. Type II FEA Activity Included in Proposed Rule

As discussed above, three kinds of activity are governed by the Type II FEA time periods in 11 CFR 100.24(a)(1): voter identification, GOTV, and generic campaign activity. *See* 2 U.S.C. 431(20)(A)(ii). The proposed rule would only apply to voter identification and GOTV activity in connection with non-Federal elections. *See* proposed 11 CFR 100.24(a)(1)(iii). The Commission seeks comment on this approach. These types of activities, such as identifying voter preferences for updating a voter list or phone calls reminding voters to vote for a particular candidate on Election Day, are usually for the purpose of promoting specific candidates and can be conducted solely in connection with a non-Federal election.

The proposed rule does not exempt generic campaign activity. Generic campaign activity is defined as ''a public communication that promotes or opposes a political party and does not promote or oppose a clearly identified Federal candidate or a non-Federal candidate.'' *See* 2 U.S.C. 431(21); 11 CFR 100.25. For example, ''Vote for the Democrats on May 4th'' could constitute generic campaign activity under this definition. The Commission notes that some generic campaign activity could be presumed to be in connection with both Federal and non-Federal elections. Should the Commission include generic campaign activity in the final rule? How could the Commission draft such a rule to ensure that only generic campaign activity affecting (and made solely in connection with) non-Federal elections is exempted? Does the inclusion of the phrase ''on May 4th'' in the above example serve to ensure that the communication will affect only the election held on May 4th? Alternatively, should generic campaign activity be excluded from the final rule?

Although voter identification is included in the proposed rule, initial acquisition or purchase of voter lists generally would not meet the requirements of the proposed rule because most State, district and local party committees and organizations will acquire voter lists for use in connection with more than one election. However, if a State, district, or local party committee or organization were able to show that it acquired a voter list to conduct GOTV activities and/or voter identification solely for a non-Federal election held on a date separate from

[9] Under Commission regulations, ''voter identification'' activity includes ''acquiring information about potential voters'' and creating or modifying voter lists with information regarding ''voters' likelihood of voting in an upcoming election or their likelihood of voting for specific candidates.'' *See* 11 CFR 100.24(a)(4). GOTV activity includes contacting voters ''to assist them in engaging in the act of voting,'' such as providing information about date, times and locations of polling places and offering transport to polling places. *See* 11 CFR 100.24(a)(3).

[10] *See* 11 CFR 100.24(a)(3) (2006); *Final Rule: Definition of Federal Election Activity,* 71 FR 8926 (Feb. 22, 2006); Advisory Opinion 2006–19 (Los Angeles County Democratic Party Central Committee).

any Federal election, acquisition of the voter list could meet the requirements of the proposed rule.[11]

To qualify for the proposed exemption, the voter list must be the closest available to the list of eligible voters in the qualifying non-Federal election. For example, a county-wide voter list may not be the closest matching voter list for some non-Federal elections (*e.g.*, a municipal election), unless there were no more specific list available. Choosing a list of voters that goes beyond the voters participating in a municipal election would demonstrate that the voter identification program is not exclusively in connection with the municipal election. Accordingly, the costs of such a voter list would be treated as FEA. Are there situations in which this conclusion would not be warranted? For example, if the smaller voter list were significantly more expensive than the larger list, should acquisition of the larger list be permitted?

Similarly, if a list is acquired and used for a non-Federal election, but is then also used for any activity in connection with a subsequent Federal election, or for a non-Federal election held on the same date as a Federal election, the acquisition of the list would not meet the requirements of the proposed rule and the cost of the voter list would be treated as FEA. Should the party organization be permitted to allocate the cost of the list in proportion to its use in connection with non-Federal and Federal elections?

The Commission seeks comment on this approach to voter list acquisition under the proposed rule. Is it feasible for State, district and local parties to show that the acquisition of a voter list was solely in connection with a non-Federal election by tracking when a certain voter list is ''used'' in connection with certain elections? Section 100.24(a)(4) states that the date the list was purchased governs whether the costs of the voter list must be treated as FEA, regardless of the party's use of that list. However, the proposed exemption for voter identification would depend upon when and how the party uses a voter list. Is the proposed rule's approach to voter list acquisition inconsistent with the general definition of ''voter identification?''

How should the Commission apply the proposed rule to other types of voter identification activities, such as updating a voter list with revised contact information or voter preferences? Should a State, district or local party that expends time and resources to update and add voter information to a list in connection with a non-Federal election be barred from using updated information in subsequent Federal elections, or would the costs be allocated if the list is used in a subsequent Federal election? As an alternative, should the Commission eliminate voter list acquisition and maintenance, *i.e.* voter identification, from the proposed exemption?

D. Allocating the Costs for Activity Under the Proposed Exemption

Although voter identification and GOTV activities meeting the requirements of the proposed rule would not be considered FEA, a State, district or local party committee may be required to pay the costs of those activities using a ratio of Federal and non-Federal funds under the Commission's existing allocation rules at 11 CFR 106.7. State, district or local party committees that conduct activities in connection with non-Federal elections, but do not conduct any activity in connection with Federal elections, are not subject to the allocation rules in section 106.7. *See* 11 CFR 106.7(b). Under the proposed rule and section 106.7, those organizations may continue to pay for the activities described in the proposed rule entirely with non-Federal funds. However, State, district, and local political party committees that make expenditures and disbursements in connection with both Federal and non-Federal elections during an election cycle are required to use an allocable mix of Federal and non-Federal funds to pay for certain expenses that are not FEA pursuant to 11 CFR 100.24. See 11 CFR 106.7(b) and (c).[12]

Section 106.7(c) lists five categories of costs which must be allocated between Federal and non-Federal funds according to specific ratios: (1) Certain salaries and wages; (2) administrative costs; (3) exempt party activities that are not FEA (such as slate cards and sample ballots); (4) certain fundraising costs; and (5) certain voter drive activities that are not FEA or party exempt activities. Some voter identification and GOTV activities that are eligible for the proposed exemption may also qualify as allocable voter drive activities under section 106.7(c)(5). Section 106.7(c)(5) requires allocation of certain voter identification, voter registration, GOTV activities, and any other activities that urge the general public to register or vote, or that promote or oppose a political party without promoting or opposing a Federal or non-Federal candidate. Thus, for example, a GOTV communication that exclusively refers to the date and polling location for a non-Federal election held on a date separate from any Federal election would be eligible for the proposed exemption under proposed section 100.24(a)(1)(iii)(C). This GOTV communication would, however, also be considered voter drive activity subject to allocation under section 106.7(c)(5) because it is not FEA or exempt party activity and it encourages the general public to vote without promoting or opposing any Federal or non-Federal candidates.

Thus, even under the proposed rule, use of non-Federal funds would be limited for those voter identification and GOTV activities that are conducted ''solely in connection with a non-Federal election,'' but also qualify as allocable voter drive activity. The Commission seeks comment on this application of the allocation rules to activities eligible for the proposed exemption.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that the organizations affected by this proposed rule are State, district, and local political party committees, which are not ''small entities'' under 5 U.S.C. 601. These not-for-profit committees do not meet the definition of ''small organization,'' which requires that the enterprise be independently owned and operated and not dominant in its field. 5 U.S.C. 601(4). State political party committees are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals, and they are affiliated with the larger national political party organizations. In addition, the State political party committees representing the Democratic and Republican parties have a major controlling influence within the political arena of their State and are thus dominant in their field. District and local party committees are generally

[11] State, district and local party committees would also have to use the voter list for a communication that refers exclusively to one or more of the three topics listed in proposed section 100.24(a)(1)(iii) (A) through (C), as discussed above.

[12] Pursuant to 11 CFR 106.7(b), political party organizations that are not political committees under FECA may establish separate Federal and non-Federal accounts or use a ''reasonable accounting method approved by the Commission'' to allocate their voter drive expenses between Federal and non-Federal funds. As an alternative to allocating expenses, party committees may pay allocable expenses entirely with Federal funds. See 11 CFR 106.7(b)

considered affiliated with the State committees and need not be considered separately. To the extent that any State party committees representing minor political parties might be considered ''small organizations,'' the number affected by this proposed rule is not substantial. Finally, the proposed rule would operate to relieve funding restrictions, which reduces the economic impact on any affected entities.

List of Subjects in 11 CFR Part 100

Elections.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend Subchapter A of Chapter 1 of Title 11 of the *Code of Federal Regulations* as follows:

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

1. The authority citation for 11 CFR part 100 would continue to read as follows:

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

2. In § 100.24, paragraph (a)(1)(iii) would be revised to read as follows:

§ 100.24 Federal Election Activity (2 U.S.C. 431(20)).

(a) * * *

(1) * * *

(iii) Notwithstanding paragraphs (a)(1)(i) and (ii) of this section, in connection with an election in which a candidate for Federal office appears on the ballot does not include any voter identification or get-out-the-vote activity that is solely in connection with a non-Federal election held on a date separate from any Federal election, and that involves a communication that refers exclusively to:

(A) Non-Federal candidates participating in the non-Federal election, provided the non-Federal candidates are not also Federal candidates;

(B) Ballot referenda or initiatives scheduled for the date of the non-Federal election; or

(C) The date, polling hours or polling locations of the non-Federal election.

* * * * *

Dated: June 1, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

[FR Doc. E7–10994 Filed 6–6–07; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–28134; Airspace Docket No. 07–ASW–1]

RIN 2120–AA66

Proposed Revision of Jet Routes J–29 and J–101; South Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Jet Routes J–29 and J–101 over the South Central United States in support of the Houston Area Air Traffic System Project. These actions would allow for more effective utilization of airspace and would enhance the management of aircraft operations over the Houston terminal area.

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2007–28134 and Airspace Docket No. 07–ASW–1, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2007–28134 and Airspace Docket No. 07-ASW–1) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2007–28134 and Airspace Docket No. 07–ASW–1.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov,* or the **Federal Register**'s web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Central Service Center, 2601 Meacham Blvd. Fort Worth, TX 76137–4298.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

As part of the Houston Area Air Traffic System Project, a review of aircraft operations has identified a need to revise the jet route structure over the South Central United States by realigning jet airways J–29 and J–101. The FAA believes this action would