

day of initial broadcast will generally be known. To address the concern that a person may not know the exact time an electioneering communication is publicly distributed during the day that it is scheduled to air, the Commission is interpreting the 24-hour period in which to report the electioneering communication as starting at the end of the day in which the communication is publicly distributed. Therefore, new section 104.20(b) requires reporting of an electioneering communication by the end of the following day. The Commission did not receive any comments on this rule.

The last sentence of proposed section 104.20(b) stated that “[p]ersons *other than political committees* must file these 24-hour statements on FEC Form 9” (emphasis added). One commenter correctly noted that the highlighted language may be misleading because the Commission had stated in the Electioneering Communications Final Rules that, by operation of the expenditure and independent expenditure exemption from the definition of “electioneering communications,” political committees do not make disbursements for electioneering communications. See 67 FR at 65,197–98. Therefore, the final rule includes a sentence that makes clear that political committees report communications that are described in 11 CFR 100.29(a) as expenditures or independent expenditures and not as an electioneering communication. For those persons who are required to report electioneering communications, new section 104.20(b) requires all the information specified in new section 104.20(c) be reported on FEC Form 9.

#### 4. 11 CFR 104.20(c) Contents of Statements

New section 104.20(c) lists eight items that must be included in the statements of electioneering communications that must be filed with the Commission. No commenters addressed the introductory part of paragraph (c). The final rule slightly rewords the proposed rule to clarify that the information to be reported on FEC Form 9 pertains to electioneering communications.

##### A. 11 CFR 104.20(c)(1) Identification of the Person Making the Disbursements

New section 104.20(c)(1) requires identification of the persons who make a disbursement, or execute a contract to make a disbursement, for an electioneering communication. Under 11 CFR 100.12, as incorporated by new section 104.20(a)(4), “identification” means an individual’s first name, middle name or initial, if available, and

last name; mailing address; occupation; and the name of his or her employer; and, if the person is not an individual, the person’s full name and address. New section 104.20(c)(1) additionally requires a person that is not an individual to list its principal place of business. This rule implements the requirements in BCRA at 2 U.S.C. 434(f)(2)(A) and (B). The Commission did not receive any comments concerning this paragraph.

##### B. 11 CFR 104.20(c)(2) Identification of Persons Sharing or Exercising Direction or Control

As mandated by BCRA at 2 U.S.C. 434(f)(2)(A), new section 104.20(c)(2) requires identification of persons sharing or exercising direction or control over persons described in paragraph (c)(1), disclosing the same type of information. While one commenter addressed the definition of “sharing or exercising direction or control,” see above, no commenter specifically discussed this rule.

##### C. 11 CFR 104.20(c)(3) Identification of the Custodian of the Books and Accounts

BCRA at 2 U.S.C. 434(f)(2)(A) requires disclosure of the person who is the custodian of the books and accounts from which electioneering communication disbursements are made. New section 104.20(c)(3) implements this new provision. The information that must be disclosed about that person under BCRA and the new rules is the same as the information that must be disclosed about the persons described in paragraphs (c)(1) and (c)(2), except for paragraph (c)(1)’s requirement that a person that is not an individual state its principal place of business. The Commission did not receive any comments on this rule.

##### D. 11 CFR 104.20(c)(4) Disclosure of the Amount of Each Disbursement

BCRA also requires disclosure of disbursements of more than \$200 during the period covered by the statement, the date the disbursement was made, and the identification of the person who receives the disbursement. 2 U.S.C. 434(f)(2)(C). The final rule in new section 104.20(c)(4) follows the wording of the proposed rule without change in implementing this BCRA provision. No commenter discussed this provision in the proposed rules.

##### E. 11 CFR 104.20(c)(5) Disclosure of Candidates and Elections

Under 2 U.S.C. 434(f)(2)(D), the elections to which electioneering communications pertain, as well as the

names of all clearly identified candidates referred to in the electioneering communications, must be disclosed. The Electioneering Communications NPRM provided two alternatives to proposed 11 CFR 104.19(b)(5), identified as Alternative 5–A and Alternative 5–B, which would have implemented this statutory provision. 67 FR 51,146. Both alternatives would have required disclosure of the elections and all clearly identified candidates who are referred to in the electioneering communication, but would have contained different wording. Commenters preferred the wording of Alternative 5–B because it was easier to read and was more consistent with 2 U.S.C. 434(f)(2)(D). Because Alternative 5–B arguably was more consistent with the definition of “disclosure date,” see above, leaving no doubt as to which clearly identified candidates appear in an electioneering communication, proposed section 104.20(c)(5) in the Reporting NPRM incorporated the wording of Alternative 5–B. As such, the final rule remains unchanged from the proposed rule. No comments were received in response to the Reporting NPRM concerning proposed section 104.20(c)(5).

##### F. 11 CFR 104.20(c)(6) Disclosure Date

New section 104.20(c)(6) requires that electioneering communications statements list the disclosure date, as defined in section 104.20(a)(1), of each electioneering communication. While BCRA does not specifically require the disclosure date to be reported, this information is necessary as it is the triggering mechanism for filing the statement. This is similar to requiring the disclosure of the date an independent expenditure aggregating \$1,000 or more is made during the 24-hour reporting period. The Commission did not receive any comments on this requirement.

##### G. 11 CFR 104.20(c)(7) Disclosure of Donors to a Segregated Bank Account

BCRA requires persons who make disbursements for electioneering communications exclusively from segregated bank accounts to disclose the names and addresses of contributors who contribute an aggregate of \$1,000 or more to that segregated account. 2 U.S.C. 434(f)(2)(E). In the Electioneering Communications NPRM, the Commission sought comment on whether amounts given to persons who make disbursements for electioneering communications are contributions subject to the limitations, prohibitions, and reporting requirements of the Act.