

1           7.       Section 114.15 is added to read as follows:

2       **§ 114.15 Permissible use of corporate and labor organization funds for certain**  
3       **electioneering communications.**

4       (a)     Permissible electioneering communications. Corporations and labor organizations  
5             may make an electioneering communication, as defined in 11 CFR 100.29, to  
6             those outside the restricted class unless the communication is susceptible of no  
7             reasonable interpretation other than as an appeal to vote for or against a clearly  
8             identified Federal candidate.

9       (b)     Safe Harbor. An electioneering communication is permissible under paragraph  
10            (a) of this section if it:

- 11                   (1)     Does not mention any election, candidacy, political party,  
12                             opposing candidate, or voting by the general public;
- 13                   (2)     Does not take a position on any candidate's or officeholder's  
14                             character, qualifications, or fitness for office; and
- 15                   (3)     Either:
- 16                             (i) Focuses on a legislative, executive or judicial matter or issue;  
17                             and
- 18                                     (A) urges a candidate to take a particular position or action  
19                                     with respect to the matter or issue, or
- 20                                     (B) urges the public to adopt a particular position and to  
21                                     contact the candidate with respect to the matter or issue; or

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1 (ii) Proposes a commercial transaction, such as purchase of a  
2 book, video, or other product or service, or such as attendance (for  
3 a fee) at a film exhibition or other event.

4 (c) Rules of Interpretation. If a communication does not qualify for the safe harbor in  
5 paragraph (b), the Commission will consider whether the communication includes  
6 any indicia of express advocacy and whether the communication has an  
7 interpretation other than as an appeal to vote for or against a clearly identified  
8 Federal candidate in order to determine whether, on balance, the communication  
9 is susceptible of no reasonable interpretation other than as an appeal to vote for or  
10 against a clearly identified Federal candidate.

11 (1) A communication includes indicia of express advocacy if it:

12 (i) Mentions any election, candidacy, political party, opposing  
13 candidate, or voting by the general public; or

14 (ii) Takes a position on any candidate's or officeholder's character,  
15 qualifications, or fitness for office.

16 (2) <sup>Content that would support a determination that</sup> A communication has an interpretation other than as an appeal to vote for  
17 or against a clearly identified Federal candidate <sup>it includes content that</sup> ~~it~~:

18 (i) Focuses on a public policy issue and either urges a candidate to  
19 take a position on the issue or urges the public to contact the candidate  
20 about the issue; or

21 (ii) Proposes a commercial transaction, such as purchase of a book,  
22 video or other product or service, or such as attendance (for a fee) at a film  
23 exhibition or other event; or

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- 1 (iii) Includes a call to action or other appeal that interpreted in  
2 conjunction with the rest of the communication urges an action other than  
3 voting for or against or contributing to a clearly identified Federal  
4 candidate or political party.
- 5 (3) In interpreting a communication under paragraph (a), any doubt will be  
6 resolved in favor of permitting the communication.
- 7 (d) Information Permissibly Considered. In evaluating a communication under this  
8 section, the Commission may consider only the communication itself and basic  
9 background information that may be necessary to put the communication in  
10 context and which can be established with minimal, if any, discovery. Such  
11 information may include, for example, whether a named individual is a candidate  
12 for office or whether a communication describes a public policy issue.
- 13 (e) Examples of Communications. A list of examples derived from prior  
14 Commission or judicial actions of communications that have been determined to  
15 be permissible and of communications that have been determined not to be  
16 permissible under paragraph (a) is available on the Commission's Web site,  
17 <http://www.fec.gov>.
- 18 (f) Reporting requirement. Corporations and labor organizations that make  
19 electioneering communications under paragraph (a) aggregating in excess of  
20 \$10,000 in a calendar year shall file statements as required by 11 CFR 104.20.