

# 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 1999-2]

#### Rulemaking Petition: Definition of "Express Advocacy"; Notice of Availability

**AGENCY:** Federal Election Commission.  
**ACTION:** Rulemaking petition: Notice of Availability.

**SUMMARY:** On January 11, 1999, the Commission received a Petition for Rulemaking from James Bopp, Jr., on behalf of the Virginia Society for Human Life. The Petition urges the Commission to revise its rules defining "express advocacy" to conform with recent court decisions. The Petition is available for inspection in the Commission's Public Records Office and through its FAXLINE service.

**DATES:** Statements in support of or in opposition to the Petition must be filed on or before March 5, 1999.

**ADDRESSES:** All comments should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219-3923, with printed copy follow-up. Electronic mail comments should be sent to [expressad@fec.gov](mailto:expressad@fec.gov). Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The petitioner is requesting the Commission to revise the definition of "express

advocacy" set forth in its rules at 11 CFR 100.22 to reflect the decisions in *Maine Right to Life Committee v. FEC*, 914 F.Supp. 8 (D.Me. 1995), *aff'd per curiam*, 98 F.3d 1 (1st Cir. 1996), *cert. denied*, 118 S.Ct. 52 (U.S. 1997), and in *Right to Life of Dutchess Co. v. FEC*, 6 F.Supp.2d 248 (S.D.N.Y. 1998) ("*Dutchess County*"). Specifically, the Petition urges repeal of 11 CFR 100.22(b), which was held invalid in those cases. The challenged paragraph defines "express advocacy" to include communications in which the electoral portion is "unmistakable, unambiguous, and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action."

The "express advocacy" standard is used to determine if a disbursement qualifies as an independent expenditure for purposes of the Federal Election Campaign Act; if independent communications by corporation and labor organizations are prohibited under the Act; and if campaign communications require a disclaimer. See 2 U.S.C. 431(17), 441b, 441d; *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S.C. 238 (1986).

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW, Washington, DC 20463, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. Interested persons may also obtain a copy of the Petition by dialing the Commission's FAXLINE service at (202) 501-3413 and following its instructions, at any time of the day and week. Request document #237.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the **Federal Register**.

Dated: January 29, 1999.

**Scott E. Thomas**,  
Chairman.

[FR Doc. 99-2500 Filed 2-2-99; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 15 and 17

#### Changes in Reporting Levels for Large Trader Reports

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed Rulemaking.

**SUMMARY:** As part of its regulatory reform initiative, the Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend Parts 15 and 17 of its rules, 17 CFR Parts 15 and 17. The proposed amendments to Part 15 would raise the reporting levels at which futures commission merchants (FCMs), clearing members, foreign brokers,<sup>1</sup> and traders must file large trader reports in certain commodities. The Commission is also proposing to delete the requirement that where an independent account controller trades for a number of commodity pools, the carrying firm must identify separately each such commodity pool. In addition, the proposed amendments would delete current reporting Rule 17.01(c) under which a reporting firm must identify the number and name of other accounts not included in the special account that are controlled or owned by the trader.

The Commission is also proposing to reorganize the identifying information reported by large traders on CFTC Form 40 "Statement of Reporting Trader" to obtain and present data more useful to the Commission's market surveillance activities. The proposed amendments would streamline the reporting process and would substantially lessen the burden on persons reporting, as well as the processing workload of the Commission, without compromising the integrity of the Commission's large trader reporting system, its market surveillance activities or its oversight responsibilities.

**DATES:** Comments on this proposed rulemaking should be submitted on or before April 5, 1999.

**ADDRESSES:** Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention:

<sup>1</sup> FCMs, clearing members and foreign brokers are referred to herein collectively as "firms."