

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 2018–16]

Rulemaking Petition: Definition of Contribution

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition; notification of availability.

SUMMARY: On August 27, 2018, the Federal Election Commission received a Petition for Rulemaking, which asks the Commission to amend a regulation that defines the term “contribution” in light of a recent district court decision in *Citizens for Responsibility & Ethics in Washington v. Federal Election Commission*. The Commission seeks comments on the petition.

DATES: Comments must be submitted on or before February 1, 2019.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission’s website at <http://www.fec.gov/fosers>, reference REG 2018–03. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission’s website and in the Commission’s Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver’s license number, or any information that is restricted from disclosure, such as trade secrets or

commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Tony Buckley, Attorney, Office of the General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On August 27, 2018, the Commission received a Petition for Rulemaking from the Institute for Free Speech (“Petition”), asking the Commission to amend 11 CFR 100.52, which defines the term “contribution.” Specifically, the Institute for Free Speech asks the Commission to amend this regulation in light of the decision in *Citizens for Responsibility & Ethics in Washington v. FEC* (“*CREW*”), 316 F. Supp. 3d 349 (D.D.C. 2018), *appeal docketed*, No. 18–5261 (DC Cir. Aug. 30, 2018).

Under the Federal Election Campaign Act, 52 U.S.C. 30101–45 (the “Act”), and Commission regulations, persons other than political committees that make independent expenditures aggregating over \$250 with respect to a given election in a calendar year must report to the Commission certain information regarding their independent expenditures. 52 U.S.C. 30104(c)(1); 11 CFR 109.10(b) and (e). The Act provides that such reports must include “the identification of each person (other than a political committee) who makes a *contribution* to the reporting committee during the reporting period, whose *contribution or contributions* have an aggregate amount or value in excess of \$200 within the calendar year,” and “the identification of each person who made a *contribution* in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.” 52 U.S.C. 30104(b)(3)(A), (c)(1), (c)(2)(C) (emphasis added). Commission regulations implemented these paragraphs by requiring persons filing such reports to include the “identification of each person who made a *contribution* in excess of \$200 to the person filing such report, which *contribution* was made for the purpose of furthering the reported independent expenditure.” 11 CFR 109.10(e)(1)(vi) (emphasis added) (vacated effective September 18, 2018). Commission regulations define “contribution” as including a “gift, subscription, loan . . . , advance, or deposit of money

or anything of value made by any person for the purpose of influencing any election for Federal office.” 11 CFR 100.52; *see also* 52 U.S.C. 30101(8)(A)(i) (same).

In *CREW*, the court declared invalid and vacated the reporting requirement at 11 CFR 109.10(e)(1)(vi) for persons other than political committees that make independent expenditures. The court held that the regulation failed to implement the statutory disclosure requirements of 52 U.S.C. 30104(c). *CREW*, 316 F.Supp.3d at 423.¹

According to the Petition, “the court [in *CREW*] extended the scope of donations to nonprofit entities that may now be considered reportable contributions under the Federal Election Campaign Act . . . to include certain funds given to organizations that, while not political committees, spend \$250 in independent expenditures in a calendar year.” Petition at 1. The Petition argues that “the current definition of ‘Contribution’ is inaccurate and misleading, especially as it pertains to groups that are not political committees,” and “[t]o understand which donations [to these groups] are contributions and which are not, potential speakers must parse over 40 years of case law, because neither the statute nor the regulation defining contributions has been updated to reflect existing constitutional limits.” *Id.* at 5. In light of this, the Petition asks the Commission to open a rulemaking “to amend 11 CFR 100.52 to clarify the definition of ‘Contribution.’” *Id.*

The Commission seeks comments on the petition. The public may inspect the petition on the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

The Commission will not consider the petition’s merits until after the comment period closes. If the Commission decides that the petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

¹ An appeal of this decision is currently pending before the United States Court of Appeals for the District of Columbia Circuit.

On behalf of the Commission.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–26107 Filed 11–30–18; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 112

[Notice 2018–15]

Rulemaking Petition: Advisory Opinion Procedures

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition; notification of availability.

SUMMARY: On February 10, 2016, the Federal Election Commission received a Petition for Rulemaking that asks the Commission to promulgate rules establishing specific time periods for the submission of public comments on drafts of advisory opinions. The Commission seeks comments on this petition.

DATES: Comments must be submitted on or before February 1, 2019.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://sers.fec.gov/fosers/>, reference REG 2016–01. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, Social Security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A. Hemsley, Attorney, Office of the General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On February 10, 2016, the Federal Election Commission received a Petition for Rulemaking from Make Your Laws PAC, Inc., Make Your Laws Advocacy, Inc., Make Your Laws, Inc., and Dan Backer, Esq., asking the Commission to modify its regulation at 11 CFR 112.3 to provide time for the public to comment on drafts of advisory opinions before the Commission votes on the drafts.

Current Commission advisory opinion procedures state that the Commission “will provide at least one draft response to the Requestor and the public no later than one week prior to the Commission open meeting at which the advisory opinion will be considered.” Advisory Opinion Procedure, 74 FR 32160, 32161 (July 7, 2009). These procedures also note that “prior to the open meeting, additional advisory opinion draft responses may be produced after the initial draft(s) is released publicly,” and that “[t]he Commission will make available to the public and to Requestors any and all additional draft responses as soon as possible.” *Id.* The petition asks the Commission to modify its regulation at 11 CFR 112.3 to codify procedures establishing specific time periods for public comment on drafts of advisory opinions before the Commission votes on the drafts. The petition further asks the Commission to amend existing regulations to require that, when the Commission makes public multiple drafts of an advisory opinion, the Commission indicate the differences between those drafts.

The Commission seeks comments on the petition. The public may inspect the petition on the Commission's website at <http://sers.fec.gov/fosers/>, or in the Commission's Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

The Commission will not consider the petition's merits until after the comment period closes. If the Commission decides that the petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

On behalf of the Commission.

Dated: November 16, 2018.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–26111 Filed 11–30–18; 8:45 am]

BILLING CODE 6715–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R03–OAR–2009–0238; FRL–9986–90–Region 3]

Outer Continental Shelf Air Regulations; Consistency Update for Delaware

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; consistency update.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which Delaware is the designated COA. The State of Delaware's requirements discussed in this document are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before January 2, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2009–0238 at <http://www.regulations.gov>, or via email to maldonado.zelma@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy,