to clarify that the regulations do not apply to legal proceedings in which the DNFSB or United States is not a party.

In the direct final rule, the DNFSB stated that if no significant adverse comments were received, the direct final rule would become effective on July 14, 2022. The DNFSB received no comments, and the direct final rule will become effective as scheduled.

Dated: June 9, 2022.

Joyce Connery,

Chair.

[FR Doc. 2022–12784 Filed 6–13–22; 8:45 am]

BILLING CODE 3670–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 109

[Notice 2022–13]

Reporting Independent Expenditures

AGENCY: Federal Election Commission.

ACTION: Interim final rule.

SUMMARY: The Federal Election Commission is removing a regulation requiring that certain persons making independent expenditures disclose on their reports the identification of each person who made a contribution over $200 to the persons filing such reports ''for the purpose of furthering the reported independent expenditure.'' The Commission is taking this action to comply with the decision of the United States Court of Appeals for the District of Columbia Circuit, which affirmed a district court decision holding that the disclosure regulation was invalid. The Commission is accepting comments on this revision to its regulation and any comments received may be addressed in a subsequent rulemaking document. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

DATES: The interim final rule is effective on September 30, 2022. Comments must be received on or before July 14, 2022.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at *https://sers.fec.gov/fosers/,* reference REG 2020–05. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. 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. Joanna S. Waldstreicher, Attorney, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act (the ''Act'') provides that any person that is not a political committee and that makes independent expenditures aggregating in excess of $250 per calendar year must file a statement containing certain information about the funds they received and spent, including identifying each person (other than a political committee) whose contributions to the person filing such statement aggregated in excess of $200 within the calendar year, together with the date and amount of such contribution. 52 U.S.C. 30104(c)(1); *see also* 52 U.S.C. 30104(b)(3)(A). The Act also provides that the statement must identify ''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(c)(2)(C).

To implement these and other independent expenditure reporting provisions of the Act, the Commission promulgated the regulation at 11 CFR 109.10, requiring that ''[e]very person that is not a political committee and that makes independent expenditures aggregating in excess of $250 with respect to a given election in a calendar year shall file a verified statement or report . . .'' including certain information about the expenditures and ''[t]he 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(b), (e)(1)(vi).

On Aug. 3, 2018, the United States District Court for the District of Columbia Circuit held that the regulation at 11 CFR 109.10(e)(1)(vi) is invalid because it conflicts with the terms of the statute, which ''mandate significantly more disclosure than that required by the challenged regulation.'' *CREW* v. *FEC,* 316 F. Supp. 3d 349, 410 (D.D.C. 2018). The district court held that 52 U.S.C. 30104(c)(1) ''plainly requires broader disclosure than just those donors making contributions for the purposes of funding the independent expenditures made by the reporting entity.'' *Id.* at 389. The district court further held that the regulation ''substantially narrows subsection (c)(2)'' of the statute, *id.* at 394, and that ''the challenged regulation's substitution of 'the reported' for 'an' is not in accord with the statutory text.'' *Id.* at 406. The district court therefore vacated the regulation, effective September 17, 2018. Order, *CREW* v. *FEC,* No. 16–259 (Aug. 3, 2018) at 2.[1] Shortly after the vacatur of the regulation became effective, the Commission issued guidance on how persons other than political committees should report their independent expenditures following the court's decision, available at: *https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/.*

On August 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court's decision. *CREW* v. *FEC,* 971 F.3d 340 (D.C. Cir 2020). The D.C. Circuit found that 11 CFR 109.10 ''disregards [52 U.S.C. 30104](c)(1)'s requirement that IE makers disclose each donation from contributors who give more than $200 . . . .'' *Id.* at 350–51. It also found that the regulation ''impermissibly narrows [52 U.S.C. 30104](c)(2)(C)'s requirement that contributors be identified if their donations are 'made for the purpose of furthering *an* independent expenditure' '' by requiring disclosure only of donations linked to a particular independent expenditure. *Id.* at 351. The court concluded that, because the statute ''establishes a broader disclosure mandate than the [Commission's] Rule ostensibly implementing it, the Rule is invalid.'' *Id.* at 356.

Commissioners have previously made efforts to reach consensus on revising the regulatory description of the reporting requirements, but were unable to find agreement by the required four affirmative votes.

In order to conform with the court opinion, the Commission is now striking 11 CFR 109.10(e)(1)(vi). The

[1] The court stayed its vacatur of the rule for 45 days from the date of the order.

Commission is adding a note to 11 CFR 109.10(e)(1) citing to the District Court and Court of Appeals decisions relating to this matter stating that the statutory provision at 52 U.S.C. 30104(c) remains in force.

The Commission is issuing this rule as an interim final rule. This interim final rule will take effect thirty legislative days after its transmittal to Congress. *See* 52 U.S.C. 30111(d). The Commission welcomes public comment on this interim final rule and may address any comments received in a later rulemaking.

The Administrative Procedure Act (''APA'') requires an agency promulgating regulations to publish a notice of a proposed rulemaking in the **Federal Register**. 5 U.S.C. 553(b). The notice requirement does not apply, however, ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). According to the APA's legislative history, a situation is ''impracticable'' when ''the due and required execution of the agency functions would be unavoidably prevented by its undertaking public rule-making proceedings.'' *See Administrative Procedure Act: Legislative History,* S. Doc. No. 248 79–258 (1946); *see also Attorney General's Manual on the Administrative Procedure Act* 15 (1947). '' 'Unnecessary' means unnecessary so far as the public is concerned, as would be the case if a minor or merely technical amendment in which the public is not particularly interested were involved.'' *Id.* ''Contrary to the public interest'' connotes a situation in which the interest of the public would be defeated by any requirement of advance notice. *Id.*

The notice to remove 11 CFR 109.10(e)(1)(vi) is unnecessary because that regulatory provision that has already been invalidated by a federal court and cannot be enforced. 5 U.S.C. 553(b)(B). Removing this provision from the regulations does not involve any exercise of discretion by the Commission. Moreover, because this provision is already unenforceable, the Commission's action will not affect the rights or interests of any person or entity, nor could the public notice and comment period benefit the Commission in this rulemaking.

In addition, a notice and comment period may be contrary to the public interest. The Commission notes that the 2022 elections for federal office are scheduled to take place on November 8, 2022. Although, as noted above, the Commission previously issued guidance on reporting requirements to the regulated community, the fundamental part of that guidance should be reflected in the Commission's regulation as soon as possible before the general election.

In addition, because this interim final rule is exempt from the notice and comment procedure under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 and 604 (Regulatory Flexibility Act). *See* 5 U.S.C. 601(2) and 604(a).

List of Subjects in 11 CFR Part 109

Coordinated and independent expenditures.

For the reasons set out in the preamble, the Commission is amending 11 CFR part 109 as follows:

PART 109—COORDINATED AND INDEPENDENT EXPENDITURES (52 U.S.C. 30101(17), 30116(a) AND (d), AND PUBLIC LAW 107–155 SEC. 214(C))

■ 1. The authority citation for part 109 continues to read as follows:

Authority: 52 U.S.C. 30101(17), 30104(c), 30111(a)(8), 30116, 30120; Sec. 214(c), Pub. L. 107–155, 116 Stat. 81.

■ 2. Section 109.10 is amended by removing and reserving paragraph (e)(1)(vi) and by adding a note to paragraph (e)(1).

The addition reads as follows:

§ 109.10 How do political committees and other persons report independent expenditures?

* * * * *

(e) * * *

(1) * * *

Note to § 109.10(e)(1): On August 3, 2018, the United States District Court for the District of Columbia vacated 11 CFR 109.10(e)(1)(vi). *CREW* v. *FEC,* 316 F. Supp. 3d 349 (Aug. 3, 2018), *aff'd,* 971 F.3d 340 (D.C. Cir. 2020). Section 30104(c) of title 52 of the U.S. Code and the remaining provisions of 11 CFR 109.10 remain in force.

* * * * *

Dated: June 8, 2022.

On behalf of the Commission,

Allen J. Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–12771 Filed 6–13–22; 8:45 am]

BILLING CODE 6715–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1002

Consumer Financial Protection Circular 2022–03: Adverse Action Notification Requirements in Connection With Credit Decisions Based on Complex Algorithms

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Consumer financial protection circular.

SUMMARY: The Consumer Financial Protection Bureau (Bureau or CFPB) has issued Consumer Financial Protection Circular 2022–03, titled, ''Adverse Action Notification Requirements in Connection with Credit Decisions Based on Complex Algorithms.'' In this circular, the Bureau responds to the question, ''When creditors make credit decisions based on complex algorithms that prevent creditors from accurately identifying the specific reasons for denying credit or taking other adverse actions, do these creditors need to comply with the Equal Credit Opportunity Act's requirement to provide a statement of specific reasons to applicants against whom adverse action is taken?''

DATES: The Bureau released this circular on its website on May 26, 2022.

ADDRESSES: Enforcers, and the broader public, can provide feedback and comments to *Circulars@cfpb.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Davis, Attorney-Advisor, Office of Fair Lending and Equal Opportunity, at (202) 435–7000. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

Question Presented

When creditors make credit decisions based on complex algorithms that prevent creditors from accurately identifying the specific reasons for denying credit or taking other adverse actions, do these creditors need to comply with the Equal Credit Opportunity Act's (ECOA's) requirement to provide a statement of specific reasons to applicants against whom adverse action is taken?

Response

Yes. ECOA and Regulation B require creditors to provide statements of specific reasons to applicants against whom adverse action is taken. Some creditors may make credit decisions based on certain complex algorithms,