commodate the renumbering of section 313 of Pub. L. 92–225 as section 312 of Pub. L. 92–225 by section 105 of Pub. L. 94–283. Since both the original and substituted references translate as “section 437 of this title” no change in text was required.

Subsec. (a)(8). Pub. L. 94–283, §107(a)(1), inserted “to develop such prescribed forms and to” before “to make, amend, and repeal” and inserted “and chapter 95 and chapter 96 of title 26” after “provisions of this Act”.

Subsec. (a)(9). Pub. L. 94–283, §107(a)(2), substituted “and chapter 95 and chapter 96 of title 26; and” for “and sections 608, 610, 611, 614, 615, 616, and 617 of title 18:”.

Subsecs. (a)(10), (11). Pub. L. 94–283, §107(a)(3), redesignated par. (11) as par. (10). Former par. (10), which covered the development of prescribed forms under subsection (a)(1) of this section, was struck out.


**Effective Date of 1980 Amendment**


**Effective Date**

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

§30108. Advisory opinions

(a) Requests by persons, candidates, or authorized committees; subject matter; time for response

(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 30 days after the Commission receives a complete written request.

(b) Procedures applicable to initial proposal of rules or regulations, and advisory opinions

Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 30111(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

(c) Persons entitled to rely upon opinions; scope of protection for good faith reliance

(1) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(d) Requests made public; submission of written comments by interested public

The Commission shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.


**References in Text**

This Act, referred to in subsecs. (a)(1), (b), and (c)(2), means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

**Codification**

Section was formerly classified to section 437f of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

**Prior Provisions**


Another prior section 308 of Pub. L. 92–225 was classified to section 437a of Title 2, The Congress, prior to repeal by Pub. L. 94–283.

Another prior section 308 of Pub. L. 92–225 was renumbered section 311, and is classified to section 30111 of this title.

**Amendments**


1989—Subsec. (a). Pub. L. 96–187, §107, redesignated existing provisions as par. (1), substituted provisions requiring the Commission to render a written advisory opinion no later than 60 days after receiving a written request concerning the application of this Act, chapters 95 or 96 of title 26, or a rule or regulation for provisions requiring a written advisory opinion within a reasonable time in response to a written request by any individual holding Federal office, candidate for Federal office, any political committee or the national committee of a political party, provisions requiring promulgation of a rule or regulation pursuant to procedures established by section 436(c) of this title, and prohibiting issuance of advisory opinions except in accordance with the provisions of this section, and added par. (2).
The provisions of section 312(b) of the Act [subsec. (b) of this section], as amended by subsection (a) of this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.

§ 30109. Enforcement

(a) Administrative and judicial practice and procedure

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clauses (ii) and subparagraph (C), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a vio-

1 So in original. Probably should be “clause”. 

Amendment by Pub. L. 96–187, § 107, struck out the par.

(1) and (2) designations and substituted provisions re-

quiring any rule of law not stated in this Act or chapter

95 or 96 of title 26 be initially proposed as a rule or

regulation pursuant to the procedures of section 438(d)

of this title, and provisions prohibiting issuance of an

advisory opinion except in accordance with the provi-

sions of this section for provisions holding any person

relying upon an advisory opinion free from any san-

ction provided by this Act or chapter 95 or 96 of title

26, and provisions allowing reliance on an advisory

opinion by any person involved in the specific transac-

tion and any person involved in a transaction indistinguishable

from the transaction with respect to which such opin-

ion was rendered.

Subsec. (c). Pub. L. 96–187, § 107, redesignated existing

provisions as par. (1), substituted provisions allowing

reliance on any advisory opinion by any person in-

volved in the specific transaction or activity to which

such opinion was rendered and any person involved in

a transaction or activity indistinguishable from the

transaction with respect to which such opinion was

rendered for provisions mandating that any request for

an advisory opinion be made public and allowing any

interested party to transmit written comments to the

Commission prior to the rendering of its opinion, and

added par. (2).


1976—Subsec. (a). Pub. L. 94–283, § 108(a), added na-

tional committees of political parties to the enumera-

tion of persons and political bodies authorized to re-

quest advisory opinions, substituted the application of

general rules of law as stated in the Act or in chapter

95 or 96 of title 26 or as prescribed by rules or regula-

tions of the Commission to specific factual situations

for the resolution of the question of whether or not any

specific transaction or activity by an individual, can-

didate, or political committee would constitute a viola-

tion of the Act as the subject matter of advisory opin-

ions, and inserted requirement that rules or regula-

tions forming the basis for rules of law be rules or regu-

lations proposed pursuant to section 438(c) of this title

and that advisory opinions be issued only in accordance

with the provisions of this section.

Subsec. (b). Pub. L. 94–283, § 108(a), designated existing

provisions as par. (1), substituted provisions that any

person who relies upon any finding or provision of

an advisory opinion in accordance with the provisions

of paragraph (2) and who acts in good faith in accord-

ance with the provisions and findings of the advisory

opinion shall not, as a result of that act, be subject to

any sanctions provided by the Act or by chapter 95 or

96 of title 26 for provisions that any person involved in

a transaction or activity indistinguishable from the

transaction with respect to which such opinion was

rendered for provisions mandating that any request for

an advisory opinion be made public and allowing any

interested party to transmit written comments to the

Commission prior to the rendering of its opinion, and

added par. (2).

Effective Date of 1980 Amendment


Effective Date

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 95–443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.


Pub. L. 94–283, title I, § 108(b), May 11, 1976, 90 Stat. 482, provided that: "The Commission shall, no later than 90 days after the date of the enactment of this Act [May 11, 1976], conform the advisory opinions issued before such date of enactment to the requirements established by section 312(a) of the Act [subsec. (a) of this section], as amended by subsection (a) of this section."