



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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AGENDA ITEM

July 9, 2015

For Meeting of 7-16-15

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
Deputy General Counsel *LJS*

Adav Noti *AN*
Acting Associate General Counsel

Amy L. Rothstein *AR*
Assistant General Counsel

Esther D. Gyory *AR for EDG*
Attorney

SUBJECT: Notice of Availability and Petitions for Rulemaking on Independent Spending by Corporations, Labor Organizations, Foreign Nationals, and Certain Political Committees (Citizens United) filed by Make Your Laws PAC, Inc. and Make Your Laws Advocacy, Inc. and Craig Holman and Public Citizen

On June 19, 2015, the Commission received a Petition for Rulemaking from Make Your Laws PAC, Inc. and Make Your Laws Advocacy, Inc. On June 22, 2015, the Commission received a Petition for Rulemaking from Craig Holman and Public Citizen. These Petitions for Rulemaking (collectively "Petitions") ask the Commission to issue new rules and revise existing rules concerning (1) the disclosure of certain financing information regarding independent expenditures and electioneering communications; (2) election-related spending by foreign nationals; (3) solicitations of corporate and labor organization employees and members; and (4) the independence of expenditures made by independent-expenditure-only political committees and accounts.

The Office of General Counsel has examined the Petitions and determined that they meet the requirements of 11 C.F.R. § 200.2(b). Therefore, we have drafted the attached Notice of Availability ("Notice") seeking comment on whether the Commission should initiate a rulemaking on the proposals in the Petitions. The Notice will be published in the *Federal Register* pursuant to 11 C.F.R. § 200.3(a)(1).

In keeping with the Commission's regulations, the Notice does not address the merits of the Petitions. Instead, it states that consideration of the merits will be deferred until the close of the comment period.

We request that this draft Notice be placed on the agenda for the July 16, 2015 Open Meeting.

Attachment

1 **FEDERAL ELECTION COMMISSION**2 **11 CFR Parts 104, 109, 110, 114**3 **[NOTICE 2015-XX]**4 **Rulemaking Petition: Independent Spending by Corporations, Labor Organizations,**
5 **Foreign Nationals, and Certain Political Committees (Citizens United)**6 **AGENCY:** Federal Election Commission.7 **ACTION:** Rulemaking Petition: Notice of Availability.

8 **SUMMARY:** On June 19 and June 22, 2015, the Federal Election Commission received two
9 Petitions for Rulemaking that ask the Commission to issue new rules and revise existing rules
10 concerning (1) the disclosure of certain financing information regarding independent
11 expenditures and electioneering communications; (2) election-related spending by foreign
12 nationals; (3) solicitations of corporate and labor organization employees and members; and (4)
13 the independence of expenditures made by independent-expenditure-only political committees
14 and accounts. The Commission seeks comments on these petitions.

15 **DATES:** Comments must be submitted on or before [insert date 60 days after the date of
16 publication in the Federal Register].

17 **ADDRESSES:** All comments must be in writing. Commenters are encouraged to submit
18 comments electronically via the Commission's website at <http://www.fec.gov/fosers>, reference
19 REG 2015-04, or by email to [address]@fec.gov. Alternatively, commenters may submit
20 comments in paper form, addressed to the Federal Election Commission, Attn.: Amy L.
21 Rothstein, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

22 Each commenter must provide, at a minimum, his or her first name, last name, city, state,
23 and zip code. All properly submitted comments, including attachments, will become part of the

1 public record, and the Commission will make comments available for public viewing on the
2 Commission's website and in the Commission's Public Records Office. Accordingly,
3 commenters should not provide in their comments any information that they do not wish to make
4 public, such as a home street address, personal email address, date of birth, phone number, social
5 security number, or driver's license number, or any information that is restricted from disclosure,
6 such as trade secrets or commercial or financial information that is privileged or confidential.

7 **FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General
8 Counsel, or Ms. Esther D. Gyory, Attorney, Office of General Counsel, 999 E Street, NW.,
9 Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

10 **SUPPLEMENTARY INFORMATION:** On June 19, 2015, the Federal Election Commission
11 received a Petition for Rulemaking from Make Your Laws PAC, Inc. and Make Your Laws
12 Advocacy, Inc. On June 22, 2015, the Commission received a Petition for Rulemaking from
13 Craig Holman and Public Citizen. Both petitions, citing Citizens United v. FEC, 558 U.S. 310
14 (2010), ask the Commission to modify its regulations in four respects.

15 First, the Federal Election Campaign Act, 52 U.S.C. 30101-46 (the "Act"), and
16 Commission regulations require every person who makes an electioneering communication
17 aggregating in excess of \$10,000 in a calendar year and every person (other than a political
18 committee) that makes independent expenditures in excess of \$250 with respect to a given
19 election in a calendar year to report certain information to the Commission. 11 CFR 104.20(b)-
20 (c), 109.10(b), (e); 52 U.S.C. 30104(c)(1)-(2), (f). The petitions ask the Commission to "[e]nsure
21 full public disclosure of corporate and labor organization independent spending" by "requir[ing] that
22 outside spending groups disclose their donors."

1 Second, the Act and Commission regulations prohibit foreign nationals from “directly or
2 indirectly” making contributions, expenditures, and electioneering communications. 11 CFR
3 110.20; 52 U.S.C. 30121(a). The petitions ask the Commission to “[c]larify that th[is] prohibition
4 on foreign national campaign-related spending restricts such spending by U.S. corporations owned or
5 controlled by a foreign national.”

6 Third, Commission regulations prohibit corporations and labor organizations from “using
7 coercion . . . to urge any individual to make a contribution or engage in fundraising activities on
8 behalf of a candidate or political committee.” 11 CFR 114.2(f)(2)(iv), and restrict how
9 corporations and labor organizations may solicit contributions to their separate segregated funds
10 from employees and members. 11 CFR 114.5(a)(2)-(5); see also 52 U.S.C. 30118(b)(3). The
11 petitions ask the Commission to “[c]larify that corporations and labor organizations are prohibited
12 from coercing their employees and members into providing financial or other support for the
13 corporation’s or labor organization’s independent political activities.”

14 Finally, the petitions ask the Commission to “[e]nsure that the expenditures made by”
15 independent-expenditure-only political committees and accounts, see, e.g., SpeechNow.org v.
16 FEC, 599 F.3d. 686 (D.C. Cir. 2010), “are truly independent of federal candidates.”

17 The Commission seeks comments on the petitions. The public may inspect the petitions
18 on the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public
19 Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday, from 9
20 a.m. to 5 p.m. Interested persons may also obtain copies of the petitions by dialing the
21 Commission’s Faxline service at (202) 501-3413 and following its instructions. Request
22 document #280.

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1 The Commission will not consider the petitions' merits until after the comment period
2 closes. If the Commission decides that the petitions have merit, it may begin a rulemaking
3 proceeding. The Commission will announce any action that it takes in the Federal Register.

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On behalf of the Commission,

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Ann M. Ravel,

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Chair,

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Federal Election Commission.

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13 DATED: _____

14 BILLING CODE: 6715-01-P

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