

# 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 2006-4]

#### Rulemaking Petition: Exception for Certain “Grassroots Lobbying” Communications From the Definition of “Electioneering Communication”

**AGENCY:** Federal Election Commission.

**ACTION:** Rulemaking petition: Notice of availability.

**SUMMARY:** On February 16, 2006, the Commission received a Petition for Rulemaking (“Petition”) from the AFL-CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch. The Petition asks the Commission to revise its regulations by exempting certain communications consisting of “grassroots lobbying” that otherwise meet the definition of an “electioneering communication” under the Federal Election Campaign Act of 1971, as amended. The Petition is available for inspection in the Commission’s Public Records Office and on its website, <http://www.fec.gov>. Further information is provided in the supplementary information that follows.

**DATES:** Statements in support of, or in opposition to, the Petition must be submitted on or before April 17, 2006.

**ADDRESSES:** All comments must be in writing, must be addressed to Mr. Brad C. Deutsch, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail or fax to ensure timely receipt and consideration. E-mail comments must be sent to either [GRLECNOA@fec.gov](mailto:GRLECNOA@fec.gov) or submitted through the Federal eRegulations Portal at <http://www.regulations.gov>. If e-mail comments include an attachment, the attachment must be in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219-3923, with paper copy follow-

up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its website after the comment period ends. **FOR FURTHER INFORMATION CONTACT:** Mr. Brad C. Deutsch, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Bipartisan Campaign Reform Act of 2002 (“BCRA”), Public Law 107-55, 116 Stat. 81 (2002), added “electioneering communications” to the communications already regulated by the Federal Election Campaign Act of 1971, as amended (“FECA”). See 2 U.S.C. 434(f)(3). Electioneering communications are television and radio communications that refer to a clearly identified candidate for Federal office, are publicly distributed within 60 days before a general election or 30 days before a primary election, and are targeted to the relevant electorate. See 2 U.S.C. 434(f)(3)(A)(i); 11 CFR 100.29. BCRA exempts certain communications from the definition of “electioneering communication,” 2 U.S.C. 434(f)(3)(B)(i) through (iii), and specifically authorizes the Commission to promulgate regulations exempting other communications as long as the exempted communications do not promote, support, attack or oppose a Federal candidate. 2 U.S.C. 434(f)(3)(B)(iv), citing 2 U.S.C. 431(20)(A)(iii). Section 100.29(c) of the Commission’s regulations contains the regulatory exemptions to the definition of “electioneering communications.” 11 CFR 100.29(c).

The Federal Election Commission (“Commission”) has received a Petition for Rulemaking (“Petition”) from the AFL-CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch (collectively, “Petitioners”). The Petitioners ask the Commission to revise 11 CFR 100.29(c) to exempt from the definition of “electioneering communication” certain “grassroots lobbying” communications that reflect

all of the following principles: 1. The ‘clearly identified federal candidate’ is an incumbent public officeholder; 2. The communication exclusively discusses a particular current legislative or executive branch matter; 3. The communication either (a) calls upon the candidate to take a particular position or action with respect to the matter in his or her incumbent capacity, or (b) calls upon the general public to contact the candidate and urge the candidate to do so; 4. If the communication discusses the candidate’s position or record on the matter, it does so only by quoting the candidate’s own public statements or reciting the candidate’s official action, such as a vote, on the matter; 5. The communication does not refer to an election, the candidate’s candidacy, or a political party; and 6. The communication does not refer to the candidate’s character, qualifications or fitness for office.

The Commission seeks comments on whether the Commission should initiate a rulemaking on this proposed exception to the definition of “electioneering communication.”

Copies of the Petition 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 a.m. and 5 p.m., and on the Commission’s website, <http://www.fec.gov>.

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: March 9, 2006.

**Michael E. Toner,**

*Chairman, Federal Election Commission.*

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