

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.

DEPARTMENT OF ENERGY

10 CFR Part 1021

Request for Information Regarding Categorical Exclusions

AGENCY: Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) intends to update its National Environmental Policy Act (NEPA) categorical exclusions, and seeks input from interested parties to help identify activities that should be considered for new or revised categorical exclusions.

DATES: Responses should be e-mailed or postmarked by January 25, 2010. Late responses will be considered to the extent practicable.

ADDRESSES: E-mail submissions are encouraged due to the delivery time required for mail, and should be sent to yardena.mansoor@hq.doe.gov. Alternatively, submissions may be faxed to 202-586-7031 or mailed to Yardena Mansoor, Office of NEPA Policy and Compliance (GC-54); U.S. Department of Energy; 1000 Independence Avenue, SW., Washington, DC 20585.

Additional information on this Request for Information, including what information should be submitted and how to submit responses, may be found at <http://www.gc.energy.gov/nepa/>.

FOR FURTHER INFORMATION CONTACT: Yardena Mansoor, Office of NEPA Policy and Compliance (GC-54), 202-586-9326, yardena.mansoor@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Categorical exclusions are classes of actions that DOE has by regulation determined do not individually or cumulatively have a significant effect on the human environment and, therefore, normally require neither an environmental impact statement nor an environmental assessment. DOE's categorical exclusions are listed at 10 CFR part 1021, appendices A and B to subpart D.

Issued in Washington, DC on December 23, 2009.

Scott Blake Harris,
General Counsel.

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FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 106

[Notice 2009-31]

Funds Received in Response to Solicitations; Allocation of Expenses by Separate Segregated Funds and Nonconnected Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission ("Commission") proposes removing its rules regarding funds received in response to solicitations. The Commission also proposes removing two additional rules regarding the allocation of certain expenses by separate segregated funds and nonconnected committees. The United States District Court for the District of Columbia ordered that these rules are vacated, in accordance with a Court of Appeals decision. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before January 28, 2010.

ADDRESSES: All comments must be in writing, must be addressed to Mr. Robert M. Knop, 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 to ensure timely receipt and consideration. E-mail comments must be sent to emilyslistrepeal@fec.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 all comments on

its Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Neven F. Stipanovic, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On September 18, 2009, the United States Court of Appeals for the D.C. Circuit ("D.C. Circuit Court") ruled that 11 CFR 100.57, 106.6(c), and 106.6(f) violated the First Amendment of the United States Constitution. See *EMILY's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009). The court also ruled that 11 CFR 100.57 and 106.6(f), as well as one provision of 106.6(c), exceeded the Commission's authority under the Federal Election Campaign Act ("Act"). See *id.* At the direction of the D.C. Circuit Court, the United States District Court for the District of Columbia ordered that these rules are vacated. See *Final Order, EMILY's List v. FEC*, No. 05-0049 (D.D.C. Nov. 30, 2009). The Commission now proposes to remove these rules from its regulations.

I. Proposed Deletion of 11 CFR 100.57—Funds Received in Response to Solicitations

The Commission regulation at 11 CFR 100.57 went into effect on January 1, 2005. See Political Committee Status, Definition of Contribution, and Allocation for Separate Segregated Funds and Nonconnected Committees, 69 FR 68056 (Nov. 23, 2004). Under paragraph (a) of section 100.57, funds provided in response to a communication are treated as contributions if the communication indicates that any portion of the funds received would be used to support or oppose the election of a clearly identified Federal candidate. Paragraph (b)(1) of section 100.57 provides that all funds received in response to a solicitation described in section 100.57(a) that refers to both a clearly identified Federal candidate and a political party, but not to any non-Federal candidates, have to be treated as contributions. Paragraph (b)(2) states that if a solicitation described in section 100.57 refers to at least one clearly identified Federal candidate and one or more clearly identified non-Federal candidate, then at least fifty percent of the funds received in response to the