

# 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 2005–23]

#### Definition of Federal Election Activity

**AGENCY:** Federal Election Commission.

**ACTION:** Reopening of comment period.

**SUMMARY:** This notice reopens the comment period for a notice of proposed rulemaking to amend the definition of “Federal election activity.” The comment period will be open for thirty days. The NPRM includes proposals that would retain the existing definition of “voter registration activity” and modify the existing definitions of “get-out-the-vote activity” and “voter identification” to conform Commission rules to the ruling of the U.S. District Court for the District of Columbia in *Shays v. Federal Election Commission*.

**DATES:** Comments must be received on or before September 29, 2005.

**ADDRESSES:** All comments must be in writing, addressed to Ms. Mai T. Dinh, Assistant General Counsel, and submitted in either e-mail, facsimile or paper form. Commenters are strongly encouraged to submit comments by e-mail or facsimile to ensure timely receipt and consideration. E-mail comments must be sent to either [FEAdef2@fec.gov](mailto:FEAdef2@fec.gov) or submitted through the Federal eRegulations Portal at [www.regulations.gov](http://www.regulations.gov). If the e-mail comments include an attachment, the attachment must be in Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments should 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 Web site after the comment period ends.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mai T. Dinh, Assistant General Counsel, Mr. J. Duane Pugh Jr., Senior Attorney, or Ms. Margaret G. Perl, 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 No. 107–155, 116 Stat. 81 (2002), amended FECA by adding a new term, “Federal election activity” (“FEA”). The Commission defined FEA in 11 CFR 100.24. In *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *aff’d*, No. 04–5352, 2005 WL 1653053 (D.C. Cir. July 15, 2005) (“*Shays*”), the District Court held that certain parts of certain regulations had not been promulgated with adequate notice and opportunity for comment and that other aspects of the regulations were inconsistent with Congressional intent. *Shays* at 104, 107 n.83, and 108. The District Court remanded the case for further action consistent with the court’s decision.

To address the District Court decision, the Commission published a Notice of Proposed Rulemaking amending the definition of “Federal election activity.” Notice of Proposed Rulemaking for the Definition of Federal Election Activity, 70 FR 23068 (May 4, 2005). The NPRM explored possible modifications to the definitions of “voter registration activity,” “get-out-the-vote activity,” and “voter identification.” The comment period for the NPRM ended on June 3, 2005, and a hearing was held on August 4, 2005. Written comments and a transcript of the hearing can be found at: [http://www.fec.gov/law/law\\_rulemakings.shtml#definition\\_fea](http://www.fec.gov/law/law_rulemakings.shtml#definition_fea).

Witnesses at the hearing suggested that the Commission seek additional information that may assist the Commission in its decisionmaking. The Commission is reopening the comment period to allow interested parties to submit information or comments that may be useful in this rulemaking.

Dated: August 24, 2005.

**Michael E. Toner,**

*Vice Chairman, Federal Election Commission.*  
[FR Doc. 05–17155 Filed 8–29–05; 8:45 am]

**BILLING CODE 6715–01–P**

## FEDERAL ELECTION COMMISSION

### 11 CFR Parts 106 and 300

[Notice 2005–22]

#### State, District, and Local Party Committee Payment of Certain Salaries and Wages

**AGENCY:** Federal Election Commission.

**ACTION:** Reopening of comment period.

**SUMMARY:** This notice reopens the comment period for a notice of proposed rulemaking for proposed changes to regulations regarding payments by State, district or local party committees for salaries and wages of employees who spend 25 percent or less of their compensated time in a month on activities in connection with a Federal election. The proposed changes would require these expenses to be paid using at least some Federal funds, consistent with the rulings of the United States District Court for the District of Columbia and the Court of Appeals for the District of Columbia Circuit in *Shays v. Federal Election Commission*.

**DATES:** Comments must be received on or before September 29, 2005.

**ADDRESSES:** All comments must be in writing, addressed to Ms. Mai T. Dinh, Assistant General Counsel, and submitted in either e-mail, facsimile or paper form. Commenters are strongly encouraged to submit comments by e-mail or facsimile to ensure timely receipt and consideration. E-mail comments must be sent to either [SPW2@fec.gov](mailto:SPW2@fec.gov) or submitted through the Federal eRegulations Portal at <http://www.regulations.gov>. If the e-mail comments include an attachment, the attachment must be in Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments should 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 Web site after the comment period ends.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mai T. Dinh, Assistant General Counsel, Mr. Anthony T. Buckley, 999 E Street,

NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107-155, 116 Stat. 81 (March 27, 2002), amended the Federal Election Campaign Act of 1971, as amended (the “Act”), 2 U.S.C. 431 *et seq.*, by requiring State, district and local party committees (“State party committees”) to pay the salaries and wages of employees who spend more than 25 percent of their compensated time per month on activities in connection with a Federal election entirely with Federal funds.<sup>1</sup> 2 U.S.C. 431(20)(A)(iv) and 4411(b)(1). However, BCRA is silent on what type of funds State party committees must use to pay the salaries and wages of employees who spend some, but not more than 25 percent, of their compensated time per month on activities in connection with a Federal election. The Commission promulgated 11 CFR 106.7(c)(1) and (d)(1)(i), and 300.33(c)(2) to address salaries and wages for both types of employees. Under these rules, State party committees may pay the salaries or wages of employees who spend 25 percent or less of their compensated time each month on these activities entirely with funds that comply with State law. *Id.*

In *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *aff’d*, No. 04-5352, 2005 WL 1653053 (D.C. Cir. July 15, 2005) (“*Shays*”), the District Court invalidated section 300.33(c)(2) because it is inconsistent with BCRA. *See Shays*, 337 F. Supp. 2d at 114; *see also Chevron, U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837, 842-43 (1984). Although the Court of Appeals affirmed the District Court’s invalidation of the rule, its basis differed from the District Court’s. The Court of Appeals found the Commission’s justification for the rule did not satisfy the requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* *Shays*, No. 04-5352, slip op. at 62, 2005 WL 1653053 (D.C. Cir. July 15, 2005).

Before the Court of Appeals decision was issued, the Commission published a Notice of Proposed Rulemaking addressing State party committee payment of certain wages and salaries. Notice of Proposed Rulemaking on State, District, and Local Party Committee Payment of Certain Salaries and Wages, 70 FR 23072 (May 4, 2005). The NPRM offered several proposals as

to the proportion of Federal funds that must be used to pay the salaries and wages of State party committee employees who spends 25 percent or less of their compensated time in a month on activities in connection with a Federal election. The comment period for the NPRM ended on June 3, 2005, and a hearing was held on August 4, 2005. Written comments and a transcript of the hearing can be found at [http://www.fec.gov/law/law\\_rulemakings.shtml#party\\_salaries](http://www.fec.gov/law/law_rulemakings.shtml#party_salaries).

Witnesses at the hearing suggested that the Commission seek additional information that may assist the Commission in its decisionmaking. The Commission is reopening the comment period to allow all interested persons to submit information or comments that may be useful in this rulemaking in light of the Court of Appeals opinion.

Dated: August 24, 2005.

**Michael E. Toner,**

*Vice Chairman, Federal Election Commission.*

[FR Doc. 05-17156 Filed 8-29-05; 8:45 am]

**BILLING CODE 6715-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA-311-0487; FRL-7962-9]

### Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM-10) emissions from fugitive dust sources. We are proposing to approve amendments to local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by September 29, 2005.

**ADDRESSES:** Send comments to Andrew Steckel, Rulemaking Office Chief

(AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA’s technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment.

You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 1001 “I” Street,  
Sacramento, CA 95814.

San Joaquin Valley Unified Air  
Pollution Control District, 1990 E.  
Gettysburg, Fresno, CA 93726

Copies of the rules may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltx.htm>.

Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

#### FOR FURTHER INFORMATION CONTACT:

Karen Irwin, EPA Region IX, (415) 947-4116, [irwin.karen@epa.gov](mailto:irwin.karen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

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#### I. The State’s Submittal

##### A. What Rules Did the State Submit?

Table 1 lists the individual rules addressed by this proposed rule with the dates that they were adopted by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and submitted to EPA by the California Air Resources Board (CARB). The rules that are the subject of this action are collectively referred to as “Regulation VIII”.

<sup>1</sup> “Federal funds” are funds that are subject to the contribution limitations, source prohibitions, and reporting requirements of the Act. 11 CFR 300.2(g).