Proposed Rules

Federal Register
Vol. 72, No. 169
Friday, August 31, 2007

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 AGRICULTURE

Food Safety and Inspection Service

[Docket No. 2007–0022]

9 CFR Parts 304, 308, 310, 320, 327, 381, 416, and 417

Availability of the Report: Review of the Pathogen Reduction; Hazard Analysis and Critical Control Point Systems Final Rule Pursuant to Section 610 of the Regulatory Flexibility Act, as Amended

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of its report entitled, ''Review of the Pathogen Reduction; Hazard Analysis and Critical Control Point Systems Final Rule Pursuant to Section 610 of the Regulatory Flexibility Act, As Amended.''

ADDRESSES: The report is available in Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700, between 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. It is also available on the Internet at *http://www.fsis.usda.gov/regulations_&_policies/2007_Proposed_Rules_Index/index.asp.*

FOR FURTHER INFORMATION CONTACT: John O'Connell, Regulations and Petitions Policy Staff, Office of Policy, Program, and Employee Development, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700; telephone (202) 720–0345, fax (202) 690–0486.

SUPPLEMENTARY INFORMATION:

Background

FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes provide that FSIS is to protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

Section 610 of the Regulatory Flexibility Act (RFA), as amended (5 U.S.C. 601–612), requires that Federal agencies conduct a review of their rules that have a significant economic impact upon a substantial number of small entities. Agencies are required to conduct the review by the end of 10 years after the implementation of such a rule.

The purpose of the review is to determine whether the rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact upon a substantial number of small entities.

On January 28, 2005, FSIS published a schedule of its planned reviews in the **Federal Register** (70 FR 4047)—Regulatory Flexibility Act; Amended Plan for Reviewing Regulations Under Section 610 Requirements. According to the schedule, the Agency would first review the Pathogen Reduction; Hazard Analysis and Critical Control Point (PR/HACCP) Systems final rule (61 FR 38806).

FSIS assembled a team that conducted a review of the regulations implemented by the PR/HACCP rule. The team examined the five factors enumerated by Section 610 of the RFA: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with State and local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. The team also looked at the economic impact of the rule on the meat and poultry industries.

As part of its effort to satisfy the requirements of Section 610 of the RFA, FSIS published on August 12, 2005, a notice in the **Federal Register** (70 FR 47147) requesting comments from the public on the impact of the PR/HACCP rule and on the relevant factors enumerated by Section 610 of the RFA. The Agency received 19 comments from the public concerning the PR/HACCP rule. The Agency also conducted a survey of nine small and very small meat and poultry establishments in order to ensure that it received comments on the PR/HACCP rule from small and very small businesses affected by the rule.

FSIS summarized the comments it received and gives its response to these comments in the review report. In response to the comments and the review that the team conducted, the report recommends that the Agency take several steps to enhance and strengthen its outreach to small and very small businesses regarding HACCP and pathogen reduction efforts. Based on its analysis of the comments, FSIS determined that it was not necessary to make any changes to the PR/HACCP rule.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Proposed_Rules_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at

http://www.fsis.usda.gov/news_and_events/email_subscription/. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC on August 27, 2007.

Alfred Almanza,

Administrator.

[FR Doc. E7–17212 Filed 8–30–07; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL ELECTION COMMISSION

11 CFR Part 100, 104, and 114

[Notice 2007–16]

Electioneering Communications

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed revisions to its rules governing electioneering communications. These proposed rules would implement the Supreme Court's decision in *FEC* v. *Wisconsin Right to Life, Inc.*, which held that the prohibition on the use of corporate and labor organization funds for electioneering communications is unconstitutional as applied to certain types of electioneering communications. The Commission has made no final decision on the issues presented in this rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before October 1, 2007. The Commission will hold a hearing on the proposed rules on October 17, 2007 at 10 a.m. Anyone seeking to testify at the hearing must file written comments by the due date and must include a request to testify in the written comments.

ADDRESSES: All comments must be in writing, must be addressed to Mr. Ron B. Katwan, Assistant General Counsel, and must be submitted in 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 *wrtl.ads@fec.gov.* If e-mail comments include an attachment, the attachment must be in 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 Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Mr. Ron B. Katwan, Assistant General Counsel, Mr. Anthony T. Buckley, Attorney, or Ms. Margaret G. Perl, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on proposed revisions to 11 CFR parts 100, 104 and 114 that would implement the recent U.S. Supreme Court decision in *FEC* v. *Wisconsin Right to Life, Inc.*, 127 S. Ct. 2652 (June 25, 2007), available at *http://www.fec.gov/law/litigation/wrtl_sct_decision.pdf.*

I. Background

A. Statutory and Regulatory Provisions Governing Electioneering Communications

The Bipartisan Campaign Reform Act of 2002 (''BCRA'') [1] amended the Federal Election Campaign Act of 1971, as amended [2] (the ''Act'' or ''FECA''), by adding a new category of political communications, ''electioneering communications,'' to those already governed by the Act. *See* 2 U.S.C. 434(f)(3). Electioneering communications are broadcast, cable or satellite communications that refer to a clearly identified candidate for Federal office, are publicly distributed within sixty days before a general election or thirty days before a primary election, and are targeted to the relevant electorate. *See* 2 U.S.C. 434(f)(3)(A)(i). Those who make electioneering communications are subject to certain reporting obligations. *See* 2 U.S.C. 434(f)(1) and (2). Corporations and labor organizations are prohibited from using general treasury funds to finance electioneering communications, directly or indirectly. 2 U.S.C. 441b(b)(2).

The Act exempts certain communications from the definition of ''electioneering communication'' found in 2 U.S.C. 434(f)(3)(B)(i) to (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 (''PASO'') a candidate. *See* 2 U.S.C. 434(f)(3)(B)(iv), *citing* 2 U.S.C. 431(20)(A)(iii).

The Commission promulgated regulations to implement BCRA's electioneering communications provisions. *Final Rules and Explanation and Justification for Regulations on Electioneering Communications*, 67 FR 65190 (Oct. 23, 2002) (''*EC E&J*'').[3] *See also* 11 CFR 100.29 (defining ''electioneering communication''); 104.20 (implementing electioneering communications reporting requirements); 110.11(a) (requiring disclaimers in all electioneering communications); 114.2 (prohibiting corporations and labor organizations from making electioneering communications); 114.10 (allowing qualified non-profit corporations (''QNCs'') to make electioneering communications); 114.14 (restricting indirect corporate and labor organization funding of electioneering communications). Commission regulations exempt five types of communications from the definition of ''electioneering communication.'' *See* 11 CFR 100.29(c).[4]

B. U.S. Supreme Court Precedent Regarding Electioneering Communications

In *McConnell* v. *FEC,* 540 U.S. 93 (2003) (*''McConnell''*), the U.S. Supreme Court upheld BCRA's electioneering communication provisions against various constitutional challenges. *Id.* at 194, 201–02, 207–08. Specifically, the Supreme Court held that the prohibition on the use of general treasury funds by corporations and labor organizations to pay for electioneering communications in 2 U.S.C. 441b(b)(2) was not facially overbroad. *Id.* at 204–06. In *Wisconsin Right to Life, Inc.* v. *FEC,* 546 U.S. 410 (2006) (*''WRTL I''*), the U.S. Supreme Court explained that *McConnell's* upholding of section 441b(b)(2) against a facial constitutional challenge did not preclude further as-applied challenges to the corporate and labor organization funding prohibitions. *See WRTL I,* 546 U.S. at 411–12. Subsequently, in *FEC* v.

[1] Pub. L. 107–155, 116 Stat. 81 (2002).

[2] 2 U.S.C. 431 *et seq.*

[3] The Commission revised its electioneering communications regulations in 2005, in response to *Shays* v. *FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *aff'd*, 414 F.3d 76 (D.C. Cir. 2005), *reh'g en banc denied*, No. 04–5352 (D.C. Cir. Oct. 21, 2005). *See Final Rules and Explanation and Justification for Regulations on Electioneering Communications*, 70 FR 75713 (Dec. 21, 2005).

[4] The exemptions in 11 CFR 100.29(c)(1) (non-broadcast communications), 100.29(c)(2) (news stories, commentaries or editorials), 100.29(c)(3) (expenditures and independent expenditures) and 100.29(c)(4) (candidate debates or forums) are based on the express language of the Act. *See* 2 U.S.C. 434(f)(3)(B)(i) to (iii). Section 100.29(c)(5) exempts communications paid for by State or local candidates that do not PASO any Federal candidate.