

is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is significant and adverse if it meets the following criteria:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, the following comments require a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

### III. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

#### List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Isotopes,

Medical isotopes, Molybdenum-99, Nuclear materials, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Utilization facility.

For the reasons set out in this preamble and the preamble to the companion direct final rule being published concurrently with this proposed rule and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendment to 10 CFR part 50.

#### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 is revised to read as follows:

**Authority:** Atomic Energy Act secs. 11, 102, 103, 104, 105, 147, 149, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2014, 2132, 2133, 2134, 2135, 2167, 2169, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Nuclear Waste Policy Act sec. 306 (42 U.S.C. 10226); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 194 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 50.10 also issued under Atomic Energy Act secs. 101, 185 (42 U.S.C. 2131, 2235); National Environmental Policy Act sec. 102 (42 U.S.C. 4332). Sections 50.13, 50.54(d), and 50.103 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under Atomic Energy Act sec. 185 (42 U.S.C. 2235). Appendix Q also issued under National Environmental Policy Act sec. 102 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415 (42 U.S.C. 2239). Section 50.78 also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

■ 2. In § 50.2, revise the definition of “utilization facility” to read as follows:

#### § 50.2 Definitions.

\* \* \* \* \*

*Utilization facility* means:

(1) Any nuclear reactor other than one designed or used primarily for the formation of plutonium or U–233; or

(2) An accelerator-driven subcritical operating assembly used for the irradiation of materials containing special nuclear material and described in the application assigned docket number 50–608.

Dated at Rockville, Maryland, this 9th day of October, 2014.

For the Nuclear Regulatory Commission,  
**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. 2014–24733 Filed 10–16–14; 8:45 am]

BILLING CODE 7590–01–P

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 110

[NOTICE 2014–12]

#### Aggregate Biennial Contribution Limits

**AGENCY:** Federal Election Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** In addition to publishing in today's **Federal Register** an Interim Final Rule to remove the aggregate contribution limits from the Commission's regulations, the Commission requests comments on whether to begin a rulemaking to revise other regulations in light of certain language from the Supreme Court's recent decision in *McCutcheon v. FEC*. The Commission intends to review the comments it receives as it decides what revisions, if any, it will propose making to its rules.

**DATES:** Comments must be received on or before January 15, 2015. The Commission will hold a hearing on these issues on February 11, 2015. Anyone wishing 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. Comments may be submitted electronically via the Commission's Web site at *seers.fec.gov*, reference REG 2014–01. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Amy L. Rothstein, Assistant General Counsel, 999 E Street NW., Washington, DC 20463. All comments must include the full name and postal service address of a commenter, and of each commenter if filed jointly, or they will not be considered. The Commission will post comments on its Web site at the conclusion of the comment period.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General Counsel, or Mr. Theodore M. Lutz, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

## SUPPLEMENTARY INFORMATION:

## Background

The Federal Election Campaign Act, 52 U.S.C. 30101–46 (formerly 2 U.S.C. 431–57) (“FECA”), imposes two types of limits on the amount that individuals may contribute in connection with federal elections. The “base limits” restrict how much an individual may contribute to a particular candidate or political committee per election or calendar year. See 52 U.S.C. 30116(a)(1) (formerly 2 U.S.C. 441a(a)(1)). The “aggregate limits” restrict how much an individual may contribute to all candidate committees, political party committees, and other political committees in each two-year election cycle.<sup>1</sup> See 52 U.S.C. 30116(a)(3) (formerly 2 U.S.C. 441a(a)(3)). The Commission has implemented the aggregate limits in its regulations at 11 CFR 110.5.

On April 2, 2014, the United States Supreme Court held that the aggregate contribution limits at 52 U.S.C. 30116(a)(3) (formerly 2 U.S.C. 441a(a)(3)) are unconstitutional. *McCutcheon v. FEC*, 572 U.S. \_\_\_, 134 S. Ct. 1434, 1442, 1450–59 (2014) (plurality op.). The Court’s decision did not affect the base limits. See *id.* at 1442. Accordingly, in an Interim Final Rule published today in the **Federal Register**, the Commission deleted 11 CFR 110.5 and made technical and conforming changes to 11 CFR 110.1(c), 110.14(d) and (g), 110.17(b), and 110.19 to conform its regulations to the *McCutcheon* decision.

The Commission also seeks comment on whether it should further modify its regulations or practices in response to certain language from the *McCutcheon* decision.<sup>2</sup> The Commission acknowledges that these issues are not presented in this Advance Notice of Proposed Rulemaking in a way to fully apprise interested parties with sufficient clarity and specificity for the Commission to enact a final rule.

Although it held the aggregate limits to be unconstitutional, the Supreme Court indicated that there are “multiple alternatives available to Congress that would serve the Government’s interest in preventing circumvention while

avoiding ‘unnecessary abridgment’ of First Amendment rights.” *McCutcheon*, 134 S. Ct. at 1458 (quoting *Buckley v. Valeo*, 424 U.S. 1, 25 (1976)). The Court identified mechanisms that could be implemented or amended to prevent circumvention of the base limits, including: Earmarking regulations, 11 CFR part 110; affiliation factors, 11 CFR 100.5; joint fundraising committee regulations, 11 CFR 102.17; and disclosure regulations, 11 CFR part 104. The Commission seeks comment on whether it should modify its regulations or practices in these areas, as discussed below. The Commission also seeks comment on whether it should make any other regulatory changes in light of the decision.

## Earmarking

The Act provides that “all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate,” are contributions from that person to the candidate. 52 U.S.C. 30116(a)(8) (formerly 2 U.S.C. 441a(a)(8)). The Commission’s regulations define the term “earmarked” to mean “a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate’s authorized committee.” 11 CFR 110.6(b)(1).

In analyzing whether the aggregate contribution limits served to prevent circumvention of the base limits, the Court relied on this “broad[ ]” definition of “earmarked” at 11 CFR 110.6(b)(1) to conclude that Commission rules already cover “implicit agreements to circumvent the base limits.” *McCutcheon*, 134 S. Ct. at 1447, 1452–56, 1459; see also *id.* at 1453 (“[A donor] cannot . . . even imply that he would like his money recontributed to [a candidate].”). In enforcement actions, however, the Commission has determined that funds are considered to be “earmarked” only when there is “clear documented evidence of acts by donors that resulted in their funds being used” as contributions.<sup>3</sup> Should the

Commission revisit the manner in which it enforces its earmarking regulations to encompass the “implicit agreements” addressed by the Court?

In its discussion of the Commission’s earmarking regulations, the Court also considered 11 CFR 110.1(h). *McCutcheon*, 134 S. Ct. at 1453–56. That rule “governs the circumstances under which contributions to a candidate . . . must be aggregated with contributions to other political committees for purposes of the [Act’s] contribution limits.” Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 FR 760, 765 (Jan. 9, 1987). Section 110.1(h) provides that a person may contribute both to a candidate for a given election and to a political committee that supports the same candidate for the same election so long as: (1) The political committee is not an authorized committee or a single-candidate committee; (2) the contributor does not give with the knowledge that a substantial portion of the contribution will be contributed to, or expended on behalf of, that candidate for the same election; and (3) the contributor does not retain control over the funds. 11 CFR 110.1(h).<sup>4</sup> These criteria help to “disarm” the risk of circumvention, *McCutcheon*, 134 S. Ct. at 1453, and the Court accordingly suggested that the Commission “might strengthen” 11 CFR 110.1(h)(2) by “defining how many candidates a PAC must support in order to ensure that ‘a substantial portion’ of a donor’s contribution is not rerouted to a certain candidate.” *Id.* at 1459. Should the Commission make such a change to 11 CFR 110.1(h), for example, by establishing a minimum number of candidates a PAC must support or by establishing a maximum percentage of a PAC’s funds that can go to a single candidate?<sup>5</sup> Would such a change

Davis for Congress) (Feb. 2, 2005); First General Counsel’s Report at 9, MUR 5125 (Paul Perry for Congress) (Dec. 20, 2002) (finding no reason to believe where there was no “designation, instruction, or encumbrance on the contribution”).

<sup>4</sup> In Advisory Opinion 2010–09 (Club for Growth) at 5, the Commission concluded that “11 CFR 110.1(h) and its rationale do not apply to [an independent-expenditure-only political committee’s] solicitations or any contributions it receives that are earmarked for specific independent expenditures.”

<sup>5</sup> In 1985, the Commission proposed revising 11 CFR 110.1(h) to clarify its interpretation of the regulation and included a proposal to articulate “indicia of a contributor’s ‘knowledge.’” See Contribution and Expenditure Limitations and Prohibitions: Contributions by Persons and Multicandidate Political Committees, 50 FR 15169, 15172–75 (Apr. 17, 1985). Ultimately, the Commission decided not to revise that section. Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and

<sup>1</sup> Under the aggregate limits, as indexed for inflation in the 2013–14 election cycle, an individual could contribute up to \$48,600 to candidates and their authorized committees, and up to \$74,600 to other political committees, of which no more than \$48,600 could be contributed to political committees other than national party committees. See Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 78 FR 8530, 8532 (Feb. 6, 2013).

<sup>2</sup> *McCutcheon*, 134 S. Ct. at 1453–54, 1458–60.

<sup>3</sup> Factual & Legal Analysis at 6–7, MUR 5732 (Matt Brown for U.S. Senate) (Apr. 4, 2007) (concluding that there was no reason to believe earmarking had occurred where “there were no cover letters or other instructions accompanying the checks” or “on the checks themselves”) (citing MURs 4831/5274 (Nixon)); see also First General Counsel’s Report at 14–16, MUR 5445 (Geoffrey

unnecessarily limit the ability of PACs to associate with candidates? In light of the *McCutcheon* decision and discussion above, should the Commission revise any of its other earmarking rules? If so, how?

#### Affiliation

In addition to the earmarking provisions discussed above, the Court cited the anti-proliferation provisions of the Act and Commission regulations as mechanisms that limit circumvention of the base limits. *McCutcheon*, 134 S. Ct. at 1453–54 (citing former 2 U.S.C. 441a(a)(5); 11 CFR 100.5(g)). Commission regulations provide that “[a]ll committees . . . established, financed, maintained, or controlled, by the same . . . person, or group of persons . . . are affiliated,” and thus are subject to a single contribution limit. 11 CFR 100.5(g)(2), 110.3(a)(1)(ii). These regulations include a number of affiliation factors, *see* 11 CFR 100.5(g)(4), 110.3(a)(3), which the Court indicated the Commission could use—when presented with “suspicious patterns of PAC donations”—to determine whether political committees are affiliated. *See McCutcheon*, 134 S. Ct. at 1454. Are the current affiliation factors at 11 CFR 100.5(g)(4) and 110.3(a)(3) adequate to prevent circumvention of the base contribution limits? Should the Commission revisit its affiliation factors? If so, how?

#### Joint Fundraising Committees

The Act and Commission regulations authorize the creation of joint fundraising committees, *see* 52 U.S.C. 30102(e)(3)(A)(ii) (formerly 2 U.S.C. 432(e)(3)(A)(ii)); 11 CFR 102.17, as well as the transfer of funds between and among participating committees. *See* 11 CFR 102.6(a)(1)(iii), 110.3(c)(2). The Court noted that these rules could be revised to limit the opportunity for using joint fundraising committees to circumvent the base limits. *See McCutcheon*, 134 S. Ct. at 1458–59. The Court suggested, for instance, that joint fundraising committees could be limited in size, or that funds received by participants in a joint fundraising committee could be spent only “by their recipients.” *Id.*

The Act includes the following provisions that can affect transfers between committees engaged in joint fundraising. Candidates may transfer contributions they receive, “without limitation, to a national, State, or local committee of a political party.” 52 U.S.C. 30114(a)(4) (formerly 2 U.S.C.

439a(a)(4)). The limits on contributions found at 52 U.S.C. 30116(a)(1) and (2) (formerly 2 U.S.C. 441a(a)(1) and (2)) do not apply to transfers “between and among political committees which are national, State, district or local committees (including any subordinate committee thereof) of the same political party.” 52 U.S.C. 30116(a)(4) (formerly 2 U.S.C. 441a(a)(4)). The Act provides that contributions made by political committees that are “established or financed or maintained or controlled” by the same entity shall be considered to have been made by a single committee, except that this provision does not “limit transfers between political committees of funds raised through joint fundraising efforts.” 52 U.S.C. 30116(a)(5)(A) (formerly 2 U.S.C. 441a(a)(5)(A)).

In light of the *McCutcheon* decision and the statutory provisions described above, can or should the Commission revise its joint fundraising rules? If so, how?

#### Disclosure

The Supreme Court observed that disclosure requirements “may . . . ‘deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity.’” *McCutcheon*, 134 S. Ct. at 1459–60 (quoting *Buckley v. Valeo*, 424 U.S. 1, 67 (1976)). Particularly due to developments in technology—primarily the internet—the Court observed that “disclosure offers much more robust protections against corruption” because “[r]eports and databases are available on the FEC’s Web site almost immediately after they are filed.” *Id.* at 1460.

Given these developments in modern technology, what regulatory changes or other steps should the Commission take to further improve its collection and presentation of campaign finance data?

On behalf of the Commission,

Dated: October 9, 2014.

**Lee E. Goodman,**

*Chairman, Federal Election Commission.*

[FR Doc. 2014–24660 Filed 10–16–14; 8:45 am]

**BILLING CODE 6715–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2014–0752; Directorate Identifier 2014–NM–079–AD]

RIN 2120–AA64

#### Airworthiness Directives; Bombardier, Inc. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2014–06–08, for certain Bombardier, Inc. Model DHC–8–100, –200, and –300 series airplanes. AD 2014–06–08 currently requires repetitive functional checks of the nose and main landing gear, and corrective actions if necessary; and also provides optional terminating action modification for the repetitive functional checks. Since we issued AD 2014–06–08, we have determined that the optional terminating action modification is necessary to address the identified unsafe condition. This proposed AD would also require the terminating action modification. We are proposing this AD to detect and correct a false down-and-locked landing gear indication, which, on landing, could result in possible collapse of the landing gear.

**DATES:** We must receive comments on this proposed AD by December 1, 2014.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email [thd.qseries@aero.bombardier.com](mailto:thd.qseries@aero.bombardier.com); Internet <http://www.bombardier.com>. You may view this referenced service