

# Proposed Rules

Federal Register

Vol. 87, No. 245

Thursday, December 22, 2022

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 Parts 103, 104, 9007, 9014, and 9038

[Notice 2022–23]

#### Rulemaking Petition: Disgorgement of Contributions

**AGENCY:** Federal Election Commission.

**ACTION:** Rulemaking petition; notification of availability.

**SUMMARY:** On August 25, 2022, the Federal Election Commission received a Petition for Rulemaking asking the Commission to amend or clarify its regulations regarding the refunding of contributions that violate the source prohibitions or amount limitations of the Federal Election Campaign Act (“the Act”). The petitioner requests that the Commission amend its regulations to permit committees to disgorge illegal contributions to the United States Treasury, and to provide that the Commission may require disgorgement when, according to the petitioner, a refund would be unjust and create incentives for future lawbreaking.

**DATES:** Comments must be submitted on or before February 21, 2023.

**ADDRESSES:** All comments must be in writing. Commenters may submit comments electronically via the Commission’s website at <http://sers.fec.gov/fosers/>, reference REG 2022–06.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission’s website and in the Commission’s Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver’s license number, or

any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Knop, Assistant General Counsel, or Mr. Tony Buckley, Attorney, Office of the General Counsel, at (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** On August 25, 2022, the Commission received a Petition for Rulemaking from the Campaign Legal Center (“Petition”). The Petition asks the Commission to “amend or clarify the scope and remedies provided in § 103.3 to promote the robust enforcement of FECA.” Petition at 8.

The Petition notes that “Commission regulations currently state that committee treasurers must examine ‘all contributions received for evidence of illegality,’ and ‘shall refund’ illegal contributions to the contributors.” Petition at 1. (citing 11 CFR 103.3(b)). The Petition further notes that the requirement that committees refund improper contributions “is not required by FECA.” Petition at 2. The Petition asserts that refunding illegal contributions can undermine the enforcement purposes of FECA by unjustly rewarding those making illegal contributions. According to the Petition, “when those caught brazenly violating the law are rewarded with the return of the money they contributed—the tool of their illegal activity—it sends the regulated community and the public a very troubling message that the FEC permits violators to profit from their violations.” Petition at 2.

The Act prohibits committees from accepting contributions in excess of certain limits or from certain sources. *See, e.g.*, 52 U.S.C. 30116(a) (limiting the amount a committee may accept from a person); 30118(a) and 30119(a) (prohibiting a committee from accepting contributions from corporations, labor organizations, national banks, and federal contractors); *but see SpeechNow.org v. Fed. Election Comm’n*, 599 F.3d 686 (D.C. Cir. 2010) (en banc) (striking down contribution limits as applied to independent expenditure-only committees). Commission regulations generally require a committee treasurer to ascertain whether a contribution exceeds the amount limitations or is from a prohibited source. *See* 11 CFR

103.3(b). A contribution determined to exceed the amount limitations may be redesignated, reattributed, or returned to the contributor. *See* 11 CFR 103.3(b)(3). A contribution determined to be from an improper source must be returned to the contributor. *See* 11 CFR 103.3(b)(1) and (2).

In Advisory Opinion 1996–05 (Kim), a political committee asked how it should reimburse contributions that it belatedly discovered to be unlawful corporate contributions made in the names of others. The Commission concluded that the requestor may refund the contributions to the corporation or, in the alternative, pay the amount of the contributions to the United States Treasury. Subsequently, in an unrelated matter, *Fireman v. FEC*, 44 Fed. Cl. 528 (1999), the Court of Federal Claims held that 11 CFR 103.3(b)(1) and (2) mandated a refund of all illegal contributions to the contributors regardless of the circumstances, and thereby rejected the Commission’s interpretation of 11 CFR 103.3(b)(1) and (2) as permitting disgorgement of illegal contributions to the United States Treasury.

According to the Petition, “[m]any recent FEC enforcement matters involving prohibited contributions have resulted in a partial or complete contribution refund to the violator, undercutting the effect of any civil penalty.” Petition at 6. As one example, the Petition cites Matter Under Review (MUR) 7450, where a federal contractor made \$525,000 in illegal contributions and agreed to pay a \$125,000 civil penalty but had already recovered \$500,000 as a contribution refund before the Commission’s enforcement action was completed. Petition at 6–7.

The petition argues that “[t]he near certainty that federal contractors will recover their illegal contributions—more than offsetting any civil penalties the Commission assesses—undermines the deterrent effect of enforcing the federal contractor contribution ban.” Petition at 7. The Petition urges the Commission “to amend or clarify its regulations to explicitly recognize that illegal contributions may be disgorged, and that the Commission may require the disgorgement of illegal contributions in appropriate circumstances.” Petition at 8.

The Commission seeks comment on the Petition. The public may inspect the

Petition on the Commission's website at <http://sers.fec.gov/fosers/>.

The Commission will not consider the Petition's merits until after the comment period closes. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

Dated December 16, 2022.

On behalf of the Commission,

**Allen J. Dickerson,**

*Chairman, Federal Election Commission.*

[FR Doc. 2022-27779 Filed 12-21-22; 8:45 am]

**BILLING CODE 6715-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2022-1643; Project Identifier MCAI-2022-00799-T]

RIN 2120-AA64

#### Airworthiness Directives; Airbus SAS Airplanes

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

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

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2020-21-07, which applies to all Airbus SAS Model A350-941 and -1041 airplanes. AD 2020-21-07 requires replacement of affected passenger oxygen masks (which includes re-identifying the parts). Since the FAA issued AD 2020-21-07, it was determined that additional parts are subject to the unsafe condition. This proposed AD would continue to require the actions in AD 2020-21-07, and would require replacing additional affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also prohibit installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by February 6, 2023.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](http://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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**AD Docket:** You may examine the AD docket at [regulations.gov](http://regulations.gov) under Docket No. FAA-2022-1643; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

**Material Incorporated by Reference:**

- For material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this material on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu). It is also available at [regulations.gov](http://regulations.gov) under Docket No. FAA-2022-1643.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

**FOR FURTHER INFORMATION CONTACT:** Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email [dat.v.le@faa.gov](mailto:dat.v.le@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2022-1643; Project Identifier MCAI-2022-00799-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments

received, without change, to [regulations.gov](http://regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email [dat.v.le@faa.gov](mailto:dat.v.le@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### Background

The FAA issued AD 2020-21-07, Amendment 39-21280 (85 FR 64949, October 14, 2020) (AD 2020-21-07), for all Airbus SAS Model A350-941 and -1041 airplanes. FAA AD 2020-21-07 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020-0031, dated February 18, 2020 (EASA AD 2020-0031), to correct an unsafe condition identified as sticking of the breathing bag on certain passenger oxygen masks, which could prevent the breathing bag from fully inflating, and possibly injure cabin occupants following a depressurization event.

AD 2020-21-07 requires replacement of affected passenger oxygen masks (which includes re-identifying the parts).

#### Actions Since AD 2020-21-07 Was Issued

Since the FAA issued AD 2020-21-07, EASA superseded EASA AD 2020-0031 and issued EASA AD 2022-0112, dated June 17, 2022 (EASA AD 2022-0112) (also referred to as the MCAI), to