




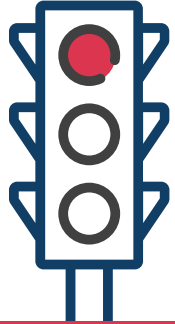
Lobbying & Advocacy 101

The fundamentals for making good policy

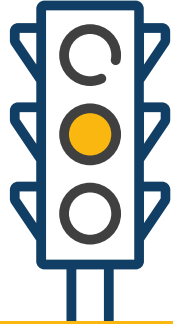
Tim Mooney
Senior Counsel

	501(c)(3) (Public Charities)	501(c)(4), 501(c)(5), 501(c)(6)	527 (Political Orgs)
Examples			
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
Lobbying Activities	Limited	Unlimited	Limited, unusual
Electoral Activities	Cannot support/oppose candidates	Tax law: secondary activity Election laws: some limits	Tax law: unlimited Election laws: some limits

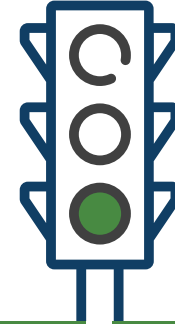
Advocacy for 501(c)(3)s



Partisan
Political



Lobbying



Organizing

Public
Education

Nonpartisan
Voter Ed.

Influencing
Corporations

Educating
Legislators

Educational
Conferences

Lobbying
Exceptions

Regulatory
Efforts

Get to Know
Legislators

Research

Training

Litigation

Lobbying

Legal, but limited

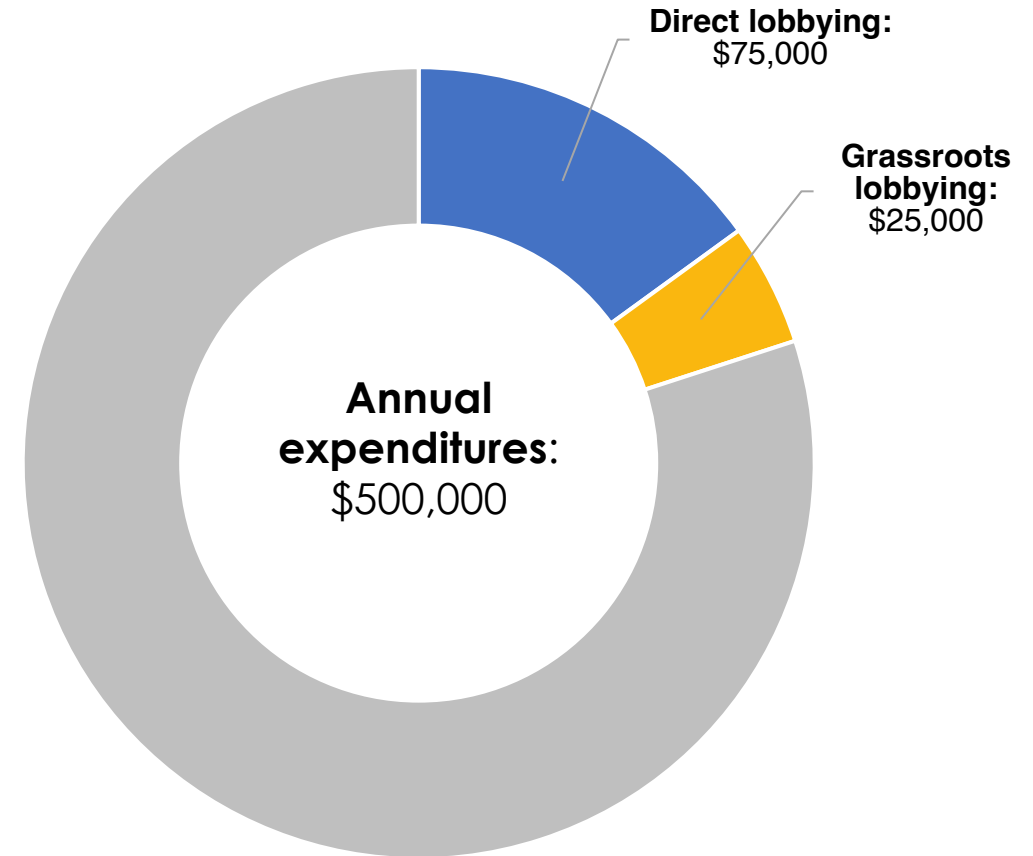
Limitation #1: Tax Law

- “No substantial part,”
OR
- 501(h) election
- Based on annual expenditures
- Most organizations can lobby up to 20% of their budget
- Lobbying cap limited: can only use up to $\frac{1}{4}$ for grassroots lobbying

ANNUAL EXPENDITURES	OVERALL LOBBYING LIMIT
\$500,000 or less	20%
\$500,000 to \$1 million	\$100,000 + 15% of excess over \$500,000
\$1 million to \$1.5 million	\$175,000 + 10% of excess over \$1 million
\$1.5 million to \$17 million	\$225,000 + 5% of excess over \$1.5 million
Over \$17 million	\$1,000,000

Lobbying cap for 501(h) electing charities

Example: A 501(c)(3) with
annual exempt purpose
expenditures of **\$500,000**



Overall Lobbying Limit = 20% **\$100,000**

Grassroots Lobbying Limit = $\frac{1}{4}$
of total cap **\$25,000**

Limitation #2: You promise not to

- Grants are contracts
- Some funders ask you not to use their grants for lobbying activity
- You can still lobby, but must use other funds
- You can use the grant funds for non-lobbying advocacy
- Knowing what lobbying is helps you to keep this promise



What is lobbying?

DIRECT

Communication

Legislator

Expresses a view
about specific
legislation

GRASSROOTS

Communication

General public

Expresses a view
about specific
legislation

Call to action



Communication

DIRECT

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Call to action



Legislators

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Federal legislators and staff



Tribal government
representatives and staff



State legislators and staff



County
commission,
town board of
supervisors, city
council, regional
government and
staff



For ballot
measure
advocacy,
the general
public

Legislators

DIRECT

President, governor, mayor, or other executive official who participates in the formulation of legislation.

Communication

Legislator

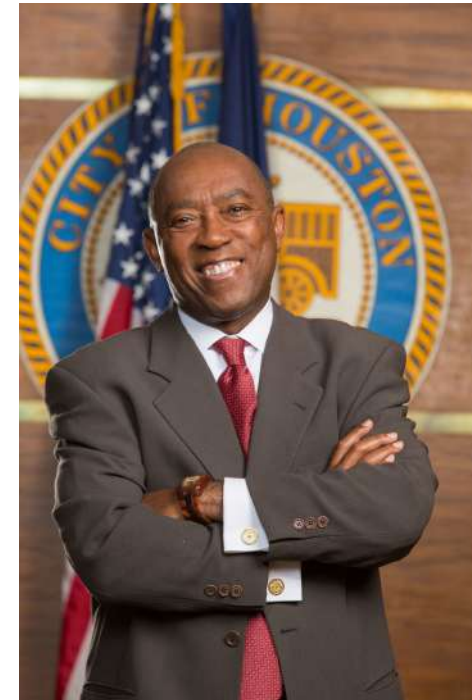
Expresses a view about specific legislation



GOV. KATHY HOCHUL (NY)



PRESIDENT JOE BIDEN



HOUSTON MAYOR
SYLVESTER TURNER

Is this lobbying?

- Meeting with MT Congressional delegation on the Wild & Scenic Rivers Act
- Communication
- Legislators
- Expressing a view about specific legislation
- Direct lobbying



Not legislators

- School board
- Zoning boards
- Housing authorities
- Sewer and water districts
- Other “special purpose bodies” with limited authority



Specific legislation

H. R. 3244

DIRECT

GRASSROOTS

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legislation

Call to action

One Hundred Sixth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand*

An Act

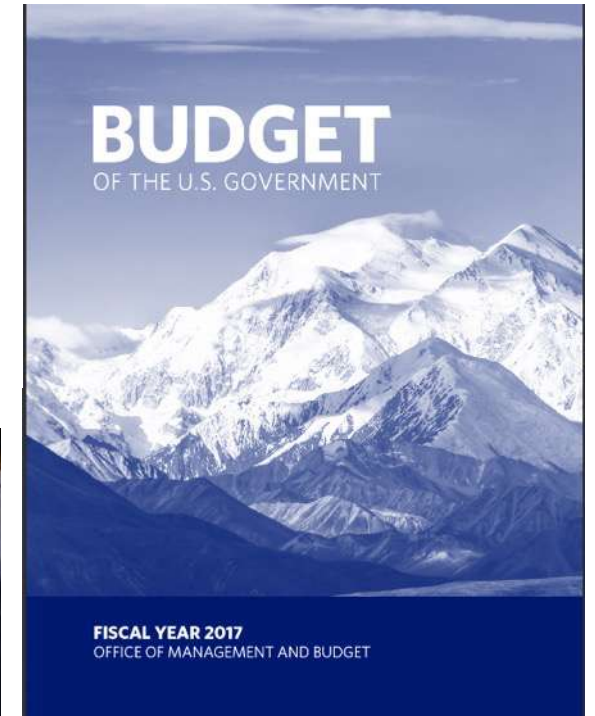
To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*
SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims of Trafficking and
Violence Protection Act of 2000".



SUPPORTING NOMINATION OF REGINA RODRIGUEZ
AS A FEDERAL DISTRICT COURT JUDGE



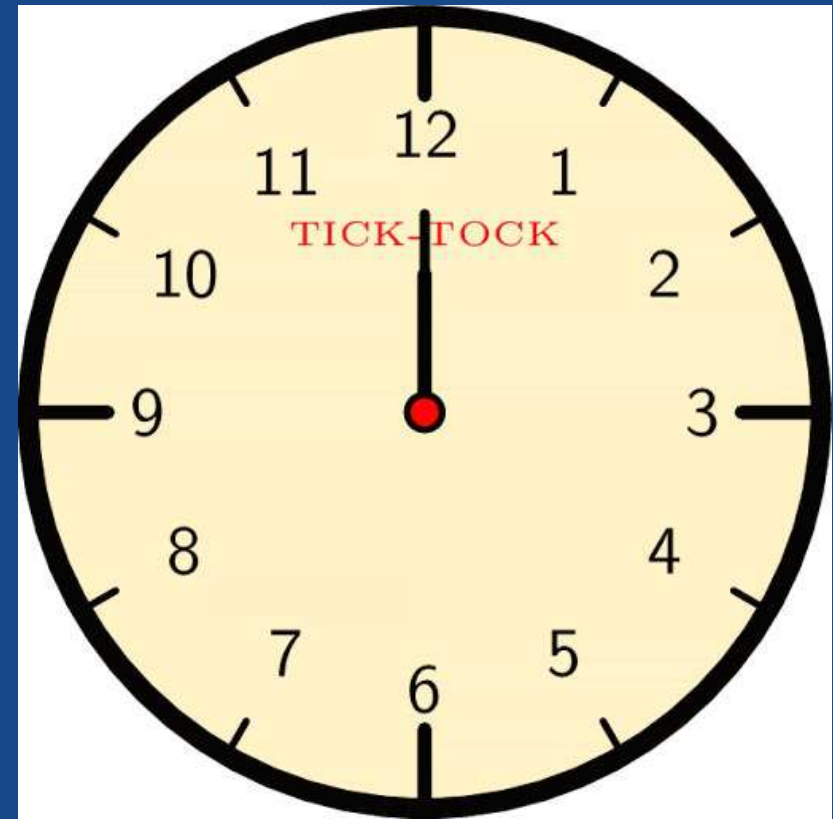
Specific policy proposal

- Something counts as specific legislation if it is a “specific policy proposal”
- Not well defined, but essentially identifying a problem and a solution that can only be accomplished with new legislation
- May not be introduced, written or even fully fleshed out!



When does the clock start ticking

- Once you make the call internally all prep work and meetings count
- If you're still mulling whether to support or oppose legislation, it's probably safe to not count that "windup"
- Be consistent, act in good faith, "don't be cute"



Mixed Purpose

- What if you're doing some lobbying, some not lobbying?
- More than half of the meeting/activity is lobbying? Count it all.
- Less than half? You can track and report proportionately



Is this lobbying?

- What if you had a meeting with a member of California Assembly where you spent 40% of the time talking about a bill on disability rights and the other 60% on the Warriors win the other night?
- Communication
- Legislator
- Expressing a view about specific legislation
- Direct lobbying (40%)



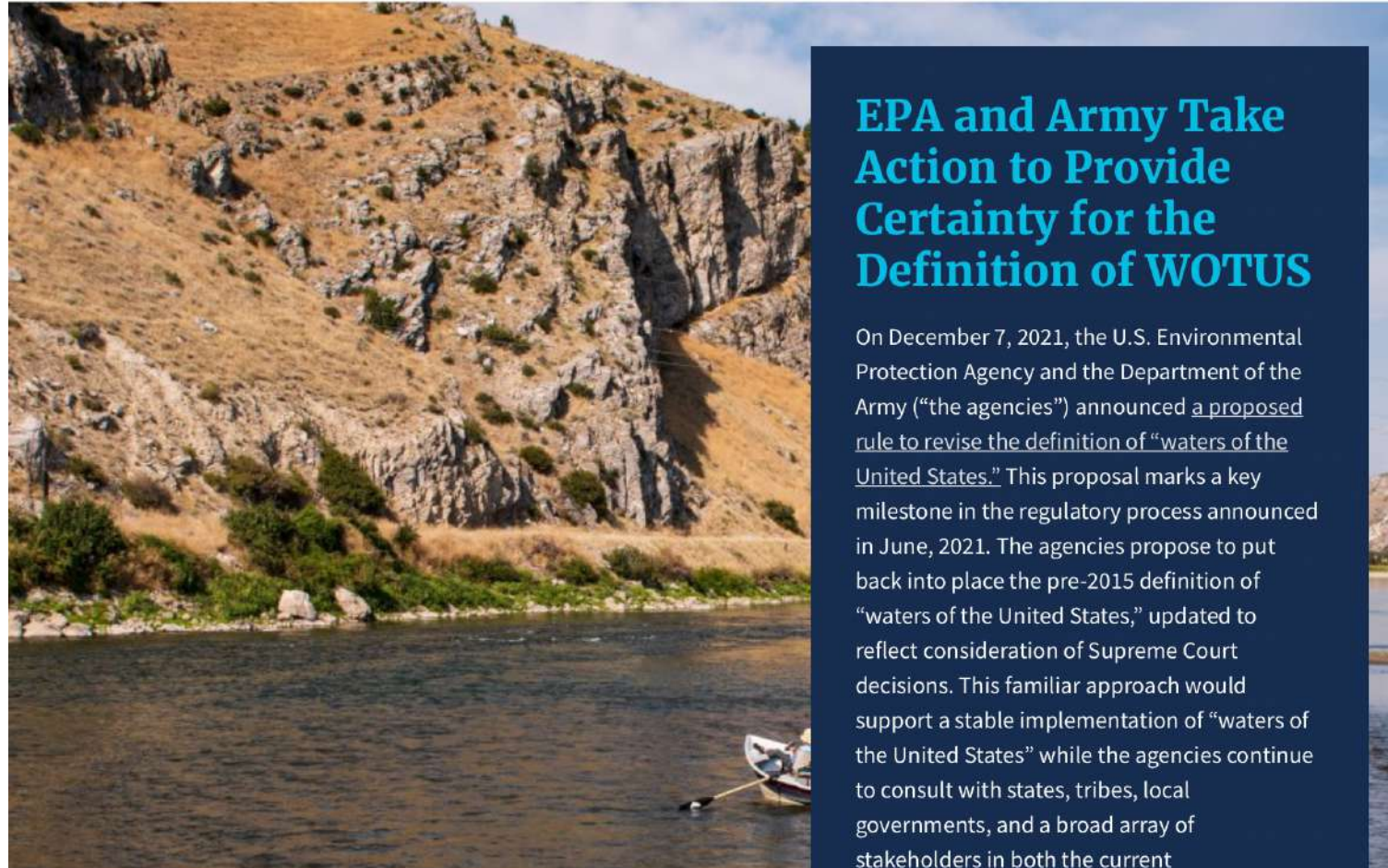
NOT specific legislation

- Regulations
- Executive orders
- Enforcement of existing laws
- Litigation



Advocacy on regulations: not lobbying

Waters of the United States



EPA and Army Take Action to Provide Certainty for the Definition of WOTUS

On December 7, 2021, the U.S. Environmental Protection Agency and the Department of the Army (“the agencies”) announced [a proposed rule to revise the definition of “waters of the United States.”](#) This proposal marks a key milestone in the regulatory process announced in June, 2021. The agencies propose to put back into place the pre-2015 definition of “waters of the United States,” updated to reflect consideration of Supreme Court decisions. This familiar approach would support a stable implementation of “waters of the United States” while the agencies continue to consult with states, tribes, local governments, and a broad array of stakeholders in both the current

Advocating on Executive Orders: not lobbying



Working to change enforcement of existing law: not lobbying

Overtake the EPA's Policy to Suspend Environmental Law Enforcement



37 have signed. Let's get to 100!



At 100 signatures, this petition is more likely to be **featured in recommendations!**

Washington, 20009
United States



Litigation: not lobbying



Lawsuit Launched Over Trump's Massive Rollback of Clean Water Act Protections

By: Waterkeeper Alliance

[Clean Water Defense](#) | [Press Releases](#) | [Chesapeake](#) | [Great Lakes](#) | [Gulf](#) | [North Atlantic](#) |
[Pacific](#) | [South Atlantic](#) | [Clean Water Act](#)

Calls to action

DIRECT

Communication

Legislator

Expresses a view
about specific
legislation

GRASSROOTS

Communication

General public

Expresses a view
about specific
legislation

Call to action

ASKING TO CONTACT
legislators

PROVIDING ADDRESS,
telephone number, and/or other contact
information of legislators

PROVIDING MECHANISM
to enable communication
with legislators

IDENTIFYING
legislators

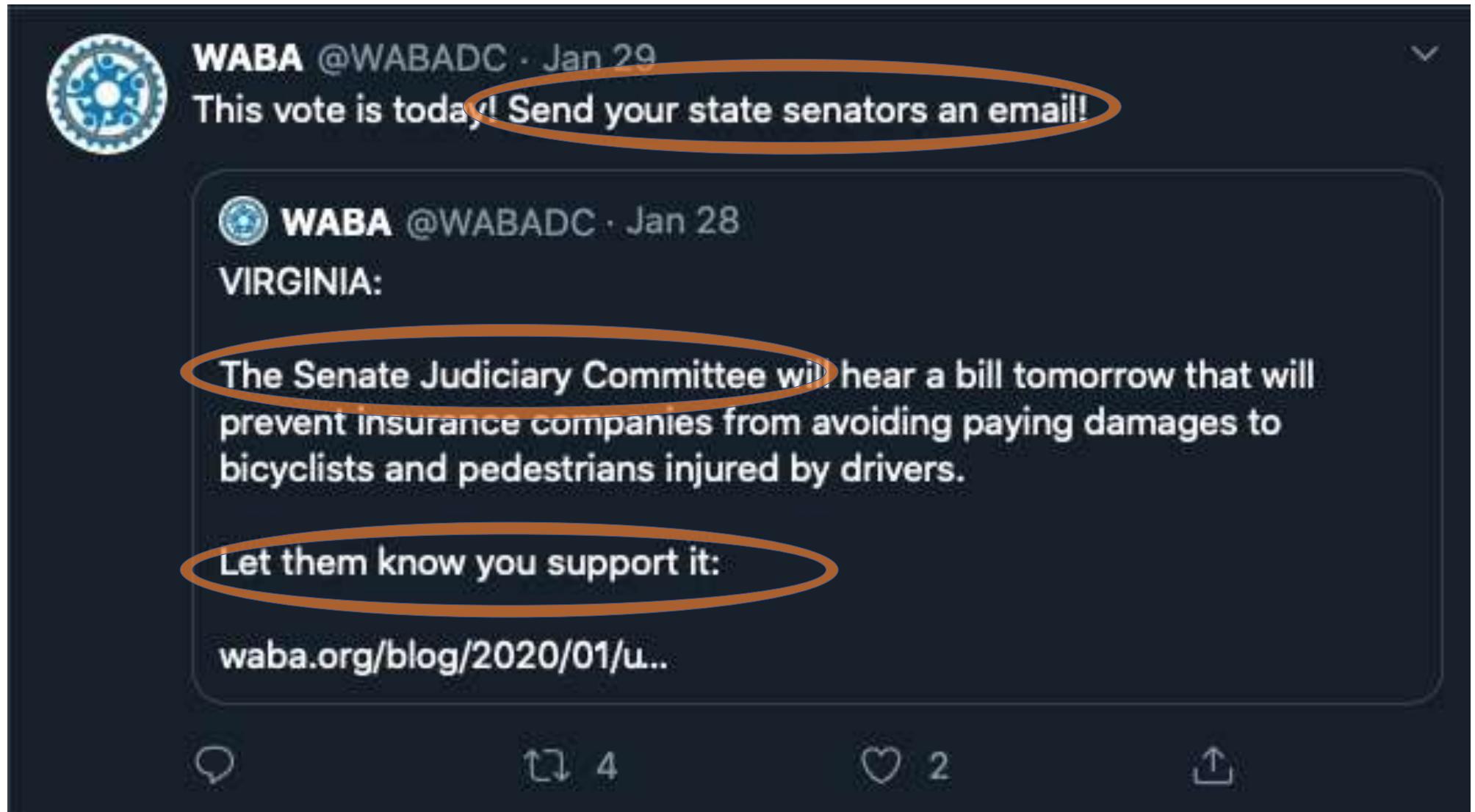


call to
action





calls to
action





call to action
if undecided
of against
your stance

Naming bill
sponsors is
NOT a call to
action!



NOT calls to action

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legislation

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General public

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about specific
legislation

~~Call to action~~



“Learn more”

“Take action”

“Support our efforts”

“Get involved”

“Join us”

NOT Lobbying

Is this lobbying?

- Supporting America's Conservation Enhancement Act
- Communication
- Specific legislation
- General Public (Twitter)
- No call to action
- Not lobbying



Choose Clean Water @ChooseCleanH2O · Sep 22, 2021

The America's Conservation Enhancement Act is the most important piece of federal legislation to help the Chesapeake Bay and its rivers and streams in more than 30 years



Delmarva Now @MyDelmarvaNow · Sep 22, 2021

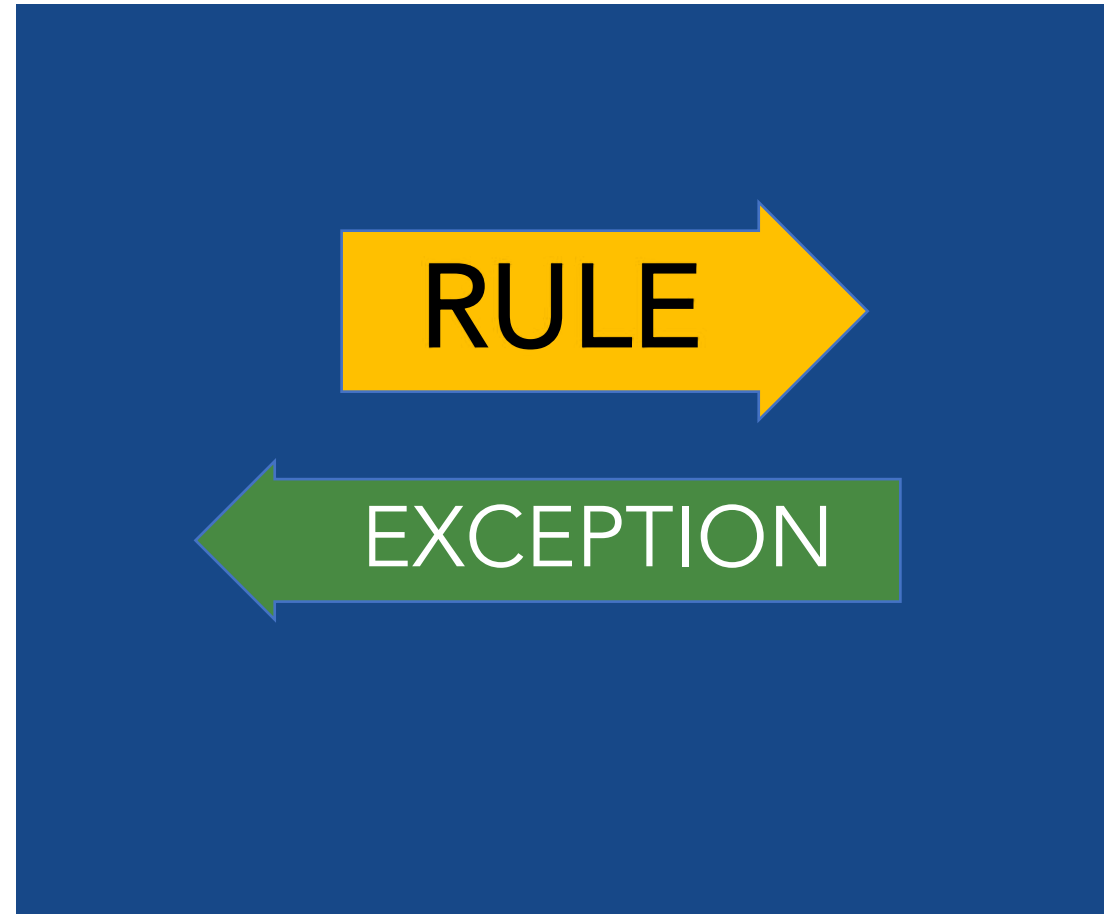
Under the legislation's framework, the U.S. Fish and Wildlife Service a direct role in the restoration and protection of living resources and their habitat in the 64,000-square-mile Chesapeake Bay region.

delmarvanow.com/story/news/loc...



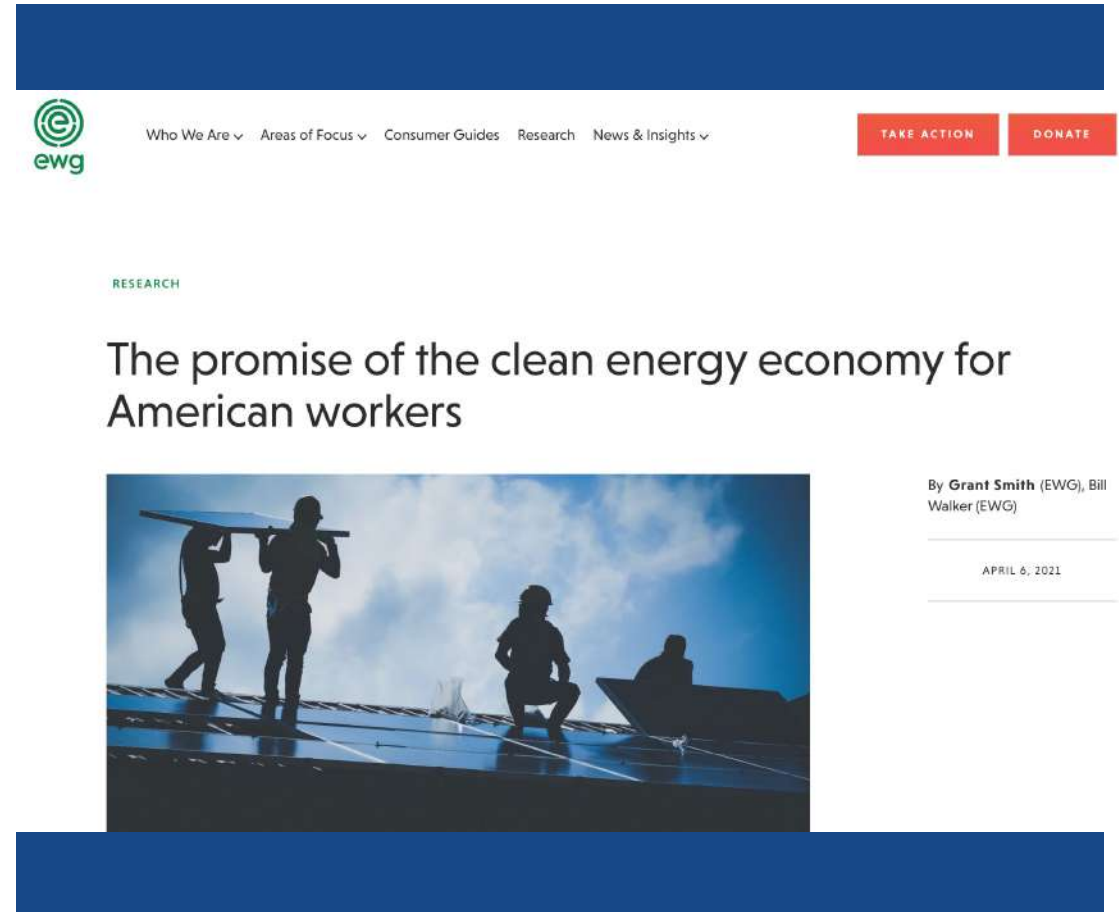
Lobbying exceptions

- Nonpartisan analysis, study, or research
- Request for technical assistance
- Self-defense
- Examinations and discussions of broad social, economic, and similar problems



Nonpartisan analysis, study, or research

- Full and fair discussion
- Broadly disseminated
- May express a view
- May contain an indirect call to action



Technical assistance

- Invited in writing
- By a chair of a committee or subcommittee
- Info available to the committee or subcommittee as a whole (i.e. not just majority/minority party)



Lobbying Limits vs. Disclosure



Rules that apply
because of your
tax-exempt status



Disclosure of
state
lobbying



Disclosure of
local
lobbying

Resources

advocacy
resource

BEING A PLAYER

A Guide to the IRS Lobbying Regulations
for Advocacy Charities

Gail M. Harmon
Jessica A. Ladd
Eleanor A. Evans

Harmon, Curran,
Spelberg & Eisenberg, LLP

advocacy
resource

KEEPING TRACK

A Guide to Recordkeeping
for Advocacy Charities

John Pomeranz

 Free PDF guides on these rules



 bolderadvocacy.org/podcast



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Houston

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