



FEDERAL ELECTION COMMISSION
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MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield *NBL by RCS*
Associate General Counsel

Rosemary C. Smith *RCS*
Assistant General Counsel

SUBJECT: Regulations Priorities

AGENDA ITEM
For Meeting of: 7-13-00

In accordance with the Regulations Committee's discussions on June 14 and 21, 2000, the Office of General Counsel has prepared a list of priorities regarding the Commission's ongoing rulemakings. We have divided these projects into three groups: those that the Commission previously considered to be the highest priority, those that need to be completed when the top priority rulemakings permit, and those that are being held in abeyance pending more pressing matters. Please note that this Office recommends that the new rulemaking regarding § 527 organizations and other political organizations be placed in the group of top priority rulemakings. This memorandum briefly states the current status of each top priority project. With regard to second priority projects and rulemaking projects held in abeyance, this Office recommends a number of changes to the status of certain projects, which are set forth below.

A similar priority list was considered by the Commission on October 21, 1999. See Agenda Doc. # 99-114. Since that time, the following rulemakings have been completed and therefore have been removed from the list:

- Public financing regulations
- Administrative fine program
- Waiver of state filing requirements
- Electronic Freedom of Information Act amendments

In addition to the projects listed below, the Regulations staff will need to devote a certain amount of time in the next few weeks and months to the following—

- The Case Management System
- PC Docs (document management system)
- Issues arising under the new administrative fine program
- Announcement of Effective Date for the mandatory electronic filing rules currently pending before Congress

Top Priority Rulemaking Projects

1. Coordinated and Independent Expenditures (11 C.F.R. § 100.23, § 109.1, and § 110.7) [Rita Reimer]

In accordance with the Regulations Committee discussion of June 14, 2000, OGC prepared final rules for Commission consideration before preparation of the E & J. The draft rules were circulated to the Regulations Committee on June 28.

2. Soft Money -- Petition for Rulemaking (11 C.F.R. Parts 100, 102, 104, 106, 110 and 114) [Paul Sanford]

Draft final rules are currently pending before the Regulations Committee.

3. Political Organizations (11 C.F.R. § 100.5) [Rita Reimer]

This Office recommends that this rulemaking be considered one of the top priority projects. We also recommend that the major purpose rulemaking be incorporated into the Advance Notice of Proposed Rulemaking that we are preparing, given that the “major purpose” test is related to the definition of “political committee.”

4. Election Cycle Reporting (11 C.F.R. § 104.3, § 104.8, and § 104.9 [Cheryl Fowle]

Draft final rules and an Explanation and Justification are being circulated to the Commission on a 72-hour tally vote basis.

5. The Internet and Federal Election Campaigns [Paul Sanford]

OGC is preparing a list of issues and preliminary recommendations so that we may obtain input from the Regulations Committee as to the proposals to be included in the Notice of Proposed Rulemaking.

Second Priority Projects

6. Disgorgement of Illegal Contributions (11 C.F.R. Part 103) [Mai Dinh]
7. Voting Records and Voter Guides – Petition for Rulemaking (11 C.F.R. § 114.4(c)(4) and (c)(5)) [Rita Reimer]

OGC recommends that this petition be considered after the coordination rulemaking is resolved, since both voting records and voter guides present coordination questions.

8. Party Committee Filing of 12 Day Pre-General Election Reports (2 U.S.C. § 434(b)) [staff assignment pending]
9. Records of Payroll Deduction Authorization (11 C.F.R. Parts 102 and 104) [staff assignment pending]
10. Compliance Procedures (11 C.F.R. Part 111) [Rosie Smith]

This rulemaking was initiated many years ago. Some issues that were addressed in the 1993 NPRM have been incorporated into other projects, and parts may no longer be appropriate in view of events that have transpired since they were originally proposed. We therefore recommend that a Notice of Disposition be prepared to close this rulemaking.

11. PAC Reporting --Petition for Rulemaking (11 C.F.R. § 100.6, § 100.12, § 102.2, § 104.3, § 104.8 and § 104.13) [Rita Reimer]

OGC recommends that the Commission not open a rulemaking in response to this petition, but, rather, that a Notice of Disposition be prepared.

Rulemaking Projects Held in Abeyance

12. Candidate Debates -- Petition for Rulemaking (11 C.F.R. § 110.13) [Paul Sanford]

On February 17, 2000, the Commission voted to instruct the Office of General Counsel to hold the petition for rulemaking in abeyance until after the 2000 general election.

13. Loans to Political Committees by Brokerage Firms [staff reassignment pending]
14. Contributions by U.S. Subsidiaries of Foreign Corporations in Federal, State, and Local Elections (11 C.F.R. § 110.4(a)) [Brad Litchfield]

In accordance with the Regulations Committee discussion on June 14, 2000, OGC recommends that this rulemaking be held in abeyance.

15. Allocation of Travel Expenses (11 C.F.R. § 106.3) [Rita Reimer]

16. Legibility of Filed Reports (11 C.F.R. Part 104) [staff assignment pending]

OGC recommends that this rulemaking be held in abeyance until after mandatory electronic filing begins in January, 2001, to permit sufficient time to reevaluate the need for regulatory changes.

17. Recordkeeping and Reporting (11 C.F.R. Parts 102 and 104) [Rita Reimer]

OGC recommends that this rulemaking be held in abeyance to permit time to assess what further changes may be needed in light of several new programs, including election cycle reporting, mandatory electronic filing, the pilot program on amending reports, and the upcoming introduction of new forms.

18. Definition of Personal Funds for Contributors (11 C.F.R. § 110.10) [Paul Sanford]

OGC recommends that this rulemaking be held in abeyance because the issue involved arose and was resolved in the context of just one Presidential audit. This will enable us to wait to see if it becomes a problem in the future.

Recommendation

The Office of General Counsel recommends that the Commission approve the above listing of rulemaking priorities.