

FEDERAL ELECTION COMMISSION

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11 CFR Part 111

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[NOTICE 2015-XX]

AGENDA ITEM

Rulemaking Petition: Administrative Fines Program & Commission Forms

For Meeting of 3-19-15

AGENCY: Federal Election Commission

SUBMITTED LATE

ACTION: Rulemaking Petition: Notice of Availability

SUMMARY: On January 23, 2015, the Federal Election Commission received a Petition for Rulemaking asking the Commission to expand its Administrative Fines Program and to revise and update several Commission forms and their instructions. The Commission seeks comments on this petition.

DATES: Comments must be submitted on or before [insert date 60 days after the date of publication in the Federal Register].

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://www.fec.gov/fosers>, reference REG 2015-01, or by email to [address]. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. 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 room. 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 M. Knop, Assistant General Counsel, Mr. Neven F. Stipanovic, Attorney, or Ms. Holly Ratliff, Office of General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On January 23, 2015, the Federal Election Commission received a Petition for Rulemaking from seven attorneys¹ (collectively "petitioners") regarding the Commission's Administrative Fines Program ("AFP") and several of the Commission's forms and their accompanying instructions. Under the AFP, the Commission assesses civil monetary penalties for late filing and failure to file certain reports as required by 52 U.S.C. 30104(a) (formerly 2 U.S.C. 434(a)) (requiring political committee treasurers to report receipts and disbursements within certain time periods). 11 CFR 111.30; see also 52 U.S.C. 30109(a)(4)(C) (formerly 2 U.S.C. 437g(a)(4)(C)). If the Commission determines that such a violation has occurred, it may assess a civil monetary penalty according to the AFP penalty schedules at 11 CFR 111.43-.44.

In December 2013, Congress authorized the Commission to expand the scope of the AFP to encompass reporting violations for reports filed under 52 U.S.C. 30104(c) (formerly 2 U.S.C. 434(c)) (certain independent expenditure reports), 52 U.S.C. 30104(e) (formerly 2 U.S.C. 434(e)) (certain federal election activity reports), 52 U.S.C. 30104(f) (formerly 2 U.S.C. 434(f)) (electioneering communications reports), 52 U.S.C. 30104(g) (formerly 2 U.S.C. 434(g)) (24- and 48-hour independent expenditure reports), 52 U.S.C. 30104(i) (formerly 2 U.S.C. 434(i)) (bundled contribution reports), and 52 U.S.C. 30105 (formerly 2 U.S.C. 437) (certain convention

¹ Messrs. Robert F. Bauer, Allen Dickerson, Benjamin L. Ginsberg, Donald F. McGahn II, Laurence E. Gold, Robert D. Lenhard, and Bradley A. Smith.

reports). See Pub. L. No. 113-72, 127 Stat. 1210 (2013). The petitioners ask the Commission to conduct a rulemaking to expand the scope of the AFP to these additional categories of reporting violations, using an approach that considers the criteria in the penalty schedule found at 11 CFR 111.43 (election sensitivity, level of activity, number of days late, and number of previous violations) and similar factors but eschews a strict formulaic penalty.

The petitioners also ask the Commission to revise several of its forms and their instructions. The proposals are divided into five categories, wherein the petitioners ask the Commission to: 1) eliminate the need for “sophisticated accounting techniques” by “add[ing] a single, streamlined page to Form 3X for reporting all in-kind contributions” and “clarify[ing] that committees need only engage in best efforts to reasonably ascertain the value of expenditures subject to 24- and 48-hour reports;” 2) revise the forms to “reflect the existence of independent-expenditure only committees;” 3) revise the forms to “reflect the existence of *Carey* funds;” 4) revise the forms to “recognize that corporations and labor organizations may make contributions to IE PACs;” and 5) revise the forms to “confine Form 3X to nonconnected committees and separate segregated funds, create a separate reporting form for political party committees, and thoroughly redesign Form 3X.”

The Commission seeks comments on the petition. The public may inspect the Petition for Rulemaking on the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m. Interested persons may also obtain a copy of the petition by dialing the Commission’s Faxline service at (202) 501-3413 and following its instructions. Request document #277.

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.

On behalf of the Commission,

Ann M. Ravel,
Chair,
Federal Election Commission.

DATED: _____

BILLING CODE: 6715-01-P