



FEDERAL ELECTION COMMISSION

11 CFR Part 104

[NOTICE 2019-12]

Rulemaking Petition: Filing Dates for Unauthorized Political Committees

AGENCY: Federal Election Commission

ACTION: Rulemaking Petition: Notification of Availability

SUMMARY: On June 14, 2019, the Federal Election Commission received a Petition for Rulemaking, which asks the Commission to amend its existing regulation that sets forth filing dates for unauthorized political committees. The proposed amendment would require any unauthorized committee that starts an election year as a quarterly filer to maintain that status through any primary elections in which the committee is involved. The Commission seeks comment on the 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 2019-02. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

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 M. Knop, Assistant General Counsel, or Ms. Jennifer G. Waldman, Attorney, Office of the General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On June 14, 2019, the Commission received a Petition for Rulemaking ("Petition") from the Campaign Legal Center asking the Commission to amend 11 CFR 104.5(c) — which sets forth the filing dates for unauthorized political committees¹ — to require any unauthorized committee that starts an election year as a quarterly filer to maintain that status through any primary elections in which the committee is involved.

The Federal Election Campaign Act, 52 U.S.C. 30101-45 (the "Act"), provides unauthorized political committees with two methods to report their receipts and disbursements to the Commission. The first method allows unauthorized committees to file semi-annual reports in non-election years and quarterly reports in election years. 52 U.S.C. 30104(a)(4)(A). Quarterly filers that make contributions or expenditures in a primary or general election must file pre-election reports 12 days before the election and must report the committee's election activities up to 20 days before the election. 52 U.S.C. 30104(a)(4)(A)(ii). All quarterly filers also must file a post-general election report no later than 30 days after the general election and must report the committee's election activities up to 20 days after the election. 52 U.S.C. 30104(a)(4)(A)(iii).

¹ An unauthorized committee "is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of such a candidate, or which has been disavowed pursuant to [11 CFR 100.3(a)(3)]." 11 CFR 100.5(f)(2).

The second method allows unauthorized committees to file on a monthly basis, except that in election years, a monthly filer must file pre- and post-general election reports in lieu of the monthly report for November and December and a year-end report no later than January 31 of the following calendar year. 52 U.S.C. 30104(a)(4)(B). Monthly filers are not required to file pre- or post-election reports for primary elections. *Id.*

Commission regulations allow an unauthorized committee to change the frequency of its reporting once every calendar year. To do so, an unauthorized committee must notify the Commission of its intent in writing at the time it files a required report under its current frequency and then file its next required report on the new filing frequency. 11 CFR 104.5(c).

The Petition asks the Commission to open a rulemaking to amend section 104.5(c) “to ensure that all unauthorized committees are required to file a pre-election report.” Petition at 4. The Petition argues that “a well-timed switch from reporting on a quarterly cycle to a monthly cycle just before a pre-election report is due can allow a political committee to take advantage of the laxer quarterly filing deadline, then avoid disclosing receipts and disbursements from the last few weeks of the campaign until after the election is over — when the information is of less value to voters.” Petition at 2. The Petition suggests that the Commission revise section 104.5(c) to prohibit committees from switching their filing schedules during an election year; prohibit committees from switching from quarterly to monthly filing in any quarter in which they participate in a primary; or establish that committees that switch to monthly filers automatically revert back to quarterly filers if they are involved in a primary in their first quarter after the switch. *Id.* at 4.

The Commission seeks comments on the petition. The public may inspect the petition on the Commission’s website, at <http://www.fec.gov/fosers>, or in the Commission’s Public Records

Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

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: August 22, 2019.

On behalf of the Commission,

Ellen Weintraub,

Chair,

Federal Election Commission.

BILLING CODE: 6715-01-P

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