

decrease in burden because of the elimination of safeguard reporting requirements is estimated to be 167 hours.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. Further, the Committee's meetings were widely publicized throughout the Oregon-California potato industry and all interested persons were invited to attend the meetings and participate in Committee deliberations. Like all Committee meetings, the February 23, 1999, and May 14, 1999, meetings were public meetings and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 14 members, of which 5 are handlers and 9 are producers. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on June 25, 1999. A copy of the rule was mailed to the Committee's administrative office for distribution to producers and handlers. In addition, the rule was made available through the Internet by the Office of the **Federal Register**. That rule provided for a 60-day comment period which ended August 24, 1999. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 34113, June 25, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

Accordingly, the interim final rule amending 7 CFR part 947 which was

published at 64 FR 34113 on June 25, 1999, is adopted as a final rule without change.

Dated: September 7, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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FEDERAL ELECTION COMMISSION

11 CFR PARTS 9003, 9004, 9008, 9032, 9033, 9034, 9035, and 9036

[Notice 1999-17]

Public Financing of Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Final Rule and Transmittal of Regulations to Congress.

SUMMARY: The Commission is revising its regulations governing publicly financed Presidential primary and general election candidates. These regulations implement the provisions of the Presidential Election Campaign Fund Act ("Fund Act") and the Presidential Primary Matching Payment Account Act ("Matching Payment Act"), which establish eligibility requirements for Presidential candidates seeking public financing, and indicate how funds received under the public financing system may be spent. They also require the Commission to audit publicly financed campaigns and seek repayment where appropriate. The revised rules reflect the Commission's experience in administering this program during several previous Presidential election cycles and also seek to resolve some questions that may arise during the 2000 Presidential election cycle. Further information is provided in the supplementary information that follows.

DATES: Further action, including the publication of a document in the **Federal Register** announcing an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 26 U.S.C. 9009(c) and 9039(c).

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Acting Assistant General Counsel, 999 E Street, NW, Washington, DC 20463, (202) 694-1650 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations governing the public financing of Presidential campaigns, 11 CFR Parts

9001 through 9039, to more effectively administer the public financing program during the year 2000 election cycle. These rules implement 26 U.S.C. 9001 *et. seq.* and 26 U.S.C. 9031 *et. seq.* On December 16, 1998, the Commission issued a Notice of Proposed Rulemaking (NPRM) in which it sought comments on proposed revisions to these regulations. 63 FR 69524 (Dec. 16, 1998).

In response to the NPRM, written comments were received from Aristotle Publishing, Inc.; America Online, Inc.; Philadelphia 2000; Perot for President '96; James Madison Center for Free Speech; Common Cause and Democracy 21 (joint comment); Brennan Center for Justice; Lyn Utrecht, Eric Kleinfeld, and Patricia Fiori (joint comment); Democratic National Committee; Hervey W. Herron (two comments); Republican National Committee; the Internal Revenue Service, and Carl P. Leubsdorf and twenty nine executives of news organizations (joint comment). The Internal Revenue Service stated that it has reviewed the NPRM and finds no conflict with the Internal Revenue Code or regulations thereunder. Subsequently, the Commission reopened the comment period and held a public hearing on March 24, 1999, at which the following eight witnesses presented testimony on the issues raised in the NPRM: Kim Hume (Fox News), George Condon (Copley News Service), Lyn Utrecht (Ryan, Phillips, Utrecht & MacKinnon), Joseph E. Sandler (Democratic National Committee), Thomas J. Josefiak (Republican National Committee), David Eisner and Trevor Potter (America Online, Inc.), and James Bopp, Jr. (James Madison Center for Free Speech).

Please note that the Commission has already published separately final rules modifying the candidate agreement provisions so that federally-financed Presidential committees must electronically file their reports. See Explanation and Justification of 11 CFR 9003.1 and 9033.1, 63 FR 45679 (August 27, 1998). Those regulations took effect on November 13, 1998. See Announcement of Effective Date, 63 FR 63388 (November 13, 1998). In addition, the Commission has issued final rules governing the matchability of contributions made by credit and debit cards, including those transmitted over the Internet. See Explanation and Justification of 11 CFR 9034.2 and 9034.3, 64 FR 32394 (June 17, 1999). An effective date for the matching fund rules will be announced once those regulations have been before Congress for thirty legislative days. Final rules concerning coordinated party committee

expenditures in the pre-nomination period and reimbursement by the news media for travel expenses are also pending before Congress. See Explanation and Justification of 11 CFR 110.7, 9004.6 and 9034.6, 64 FR 42579 (Aug. 5, 1999).

The NPRM discussed several other topics that are not included in the attached final rules. The Commission expects to address the following areas at a later date: (1) Coordination between candidates and party committees on political ads, polling, media production, consulting services and sharing of employees; (2) Modifications to the audit process; (3) Bases for primary repayment determinations; (4) The "bright line" between primary expenses and general election expenses; and (5) Pre-nomination formation of Vice Presidential committees.

Sections 9009(c) and 9039(c) of Title 26, United States Code, require that any rules or regulations prescribed by the Commission to carry out the provisions of Title 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. The final rules that follow were transmitted to Congress on September 7, 1999.

Explanation and Justification

Part 9003—Eligibility for Payments

Section 9003.3 Allowable Contributions; General Election Legal and Accounting Compliance Fund

1. Pre-nomination Formation of a GELAC

Section 9003.3 contemplates that a nominee of a major political party who accepts public financing for the general election may establish a privately funded General Election Legal and Accounting Compliance Fund ("GELAC") for certain limited purposes. A GELAC may be set up before the candidate is actually nominated for the office of President or Vice President. The Commission sought comments on several changes to this section to address problems that have arisen when primary candidates established GELACs relatively early in the primary campaign but subsequently failed to win their party's nomination. One difficulty is that candidates who do not receive their party's nomination must return all private contributions received by the GELAC. However, if some of those funds have been used to defray overhead expenses or to solicit additional contributions for the GELAC, a total refund has presented difficulties. Another problem has been ensuring that

the GELAC is not improperly used to make primary election expenditures. In particular, this may become an issue when a candidate secures the nomination well in advance of the convention and has almost completely exhausted the spending limits for the primary. To avoid a recurrence of these situations, the NPRM sought comments on the following five alternative amendments to paragraph (a)(1)(i) of section 9003.3:

(1) Bar GELAC fundraising prior to the candidate's nomination at the party's national nominating convention. Under this approach, a candidate may establish a GELAC before the date of nomination, but only for the limited purpose of receiving correctly redesignated contributions that would otherwise have to be refunded as excessive primary contributions.

(2) Bar GELAC fundraising before a specified date, such as April 15 of the Presidential election year. Under this alternative, starting on April 15 of the Presidential election year, candidates may begin soliciting contributions for the GELAC. However, if the candidate does not become the nominee, all contributions accepted for the GELAC, including redesignated contributions, must be refunded within sixty (60) days of the candidate's date of ineligibility.

(3) Allow GELAC fundraising beginning 90 days before each candidate's date of nomination. This approach means that the nominees of the two major parties will begin GELAC fundraising on different dates.

(4) Bar Presidential candidates from establishing a GELAC until the date of the last Presidential primary before the national nominating convention. A variation on this approach is to allow the eventual nominee to form a GELAC at an earlier point, but to prohibit GELAC fundraising before the last Presidential primary.

(5) Allow any Presidential primary candidate to establish and to raise funds for a GELAC at any time. Under this approach, those who do not win their party's nomination do not have to return all the funds they raise. Instead, they could offset their fundraising and administrative expenses, and would only need to refund the amount remaining in their account as of the date their party selects a nominee. The NPRM asked whether all contributors should receive a proportional refund or whether a first-in-first-out method should be used to determine which contributions have been spent, with refunds going to the most recent contributors. The NPRM noted that this alternative is significant departure from the treatment of general election

contributions received by losing primary candidates in Congressional races.

The two witnesses who addressed this topic stressed the importance of implementing policies that encourage candidates to spend money to achieve voluntary compliance with the campaign financing laws. Hence, they both urged the Commission to make no changes that would create a disincentive to spend money on compliance. They urged the Commission to continue to allow candidates to have the discretion to determine when to form a GELAC and begin GELAC solicitations. Thus, they both supported alternative 5, under which losing primary candidates only be required to refund or obtain donor redesignation for funds remaining in the account.

The Commission has decided to adopt a modified version of alternative 2. Under this approach, paragraph (a)(1)(i) continues to permit GELACs to be established at any time. However, new language indicates that before June 1 of the Presidential election year, the GELAC may only be used for the deposit of primary election contributions that exceed the contributors' contribution limits and are properly redesignated under 11 CFR 110.1. Please note that overhead and reporting expenses incurred by the GELAC may be defrayed from interest received on the account. The modifications to these regulations also specify that the GELAC may not solicit contributions before June 1 of the Presidential election year. This date has been selected because, barring unforeseen circumstances, this is the point when a party's prospective nominee can be reasonably assured that he or she will need to raise funds for a GELAC. This time frame also gives the prospective nominee sufficient time to raise the funds that will be needed. Please note that revisions to the rules governing joint fundraising between the primary campaign and the GELAC are discussed below in section 9034.4.

Paragraph (a)(1)(i) of this section is also being revised to state more clearly that a GELAC may be established by an individual who is seeking his or her party's nomination, but who is not yet a general-election candidate as defined in section 9002.2.

The Commission is also amending paragraph (a)(1)(i) of section 9003.3 to indicate that if the candidate does not become the nominee, all contributions accepted for the GELAC, including redesignated contributions, must be refunded within sixty (60) days of the candidate's date of ineligibility. Such refunds are consistent with the Commission's decision in the last

Presidential election cycle to require refunds within 60 days of the date on which the political party of the unsuccessful primary candidate selects its nominee. These refunds are also consistent with the policies applicable to non-publicly funded Congressional candidates who accept designated general election contributions, but who thereafter lose their parties' primaries. See 11 CFR 102.9(e)(2), and Advisory Opinions 1992-15 and 1986-17. Please note that if contributors do not cash the refund checks, the provisions of section 9007.6 governing stale dated checks will apply.

2. Transfers from the Primary Campaign Committee to the GELAC

The regulations at 11 CFR 9003.3(a)(1)(i) through (v) place certain restrictions on transferring funds from a Presidential candidate's primary committee to a GELAC. The purpose of these limitations is to ensure that the GELAC is not used as a way to increase a candidate's entitlement to matching funds or to decrease a candidate's repayment obligations. The NPRM sought suggestions as to how these provisions could be strengthened, and whether it is advisable to do so. The sole comment that addressed this issue stated that the current regulations at 11 CFR 9003.3(a)(1) are more than adequate to ensure that the GELAC is not used to increase candidate entitlement or decrease repayments. The Commission has decided not to amend these transfer regulations because it agrees that the current rules adequately fulfill these objectives.

Section 9003.5 Documentation of Disbursements

Section 9003.5(b)(1) sets forth the documentation publicly financed general election committees must provide for disbursements in excess of \$200. The documentation includes a canceled check that has been negotiated by the payee. However, paragraph (b)(1)(iv) of this section refers back to this canceled check without specifically restating that it must be negotiated by the payee. To avoid possible confusion, the Commission is amending section 9003.5(b)(1)(iv) by adding the words "negotiated by the payee." This change is consistent with the recent judicial decision in *Fulani v. Federal Election Commission*, 147 F.3d 924 (D.C. Cir. 1998). A cross reference is also being added to assist the reader in locating the reporting regulations that list examples of acceptable and unacceptable descriptions of "purpose." See 11 CFR 104.3(b)(3)(i)(B). None of the public

comments or testimony addressed these changes.

Part 9004—Entitlement of Eligible Candidates to Payments; Use of Payments

Section 9004.4

1. Winding Down Costs

Two technical changes are being made to the winding down provisions found in paragraph (a)(4) of section 9004.4. First, the "or" at the end of paragraph (a)(4)(i) is being changed to "and," to clarify that the expenses listed in both paragraphs (a)(4)(i) and (a)(4)(ii) are considered winding down costs. Second, paragraph (a)(4)(ii) is being amended to more clearly indicate that the winding down costs described in this paragraph are costs associated with the general election campaign.

2. Lost, Misplaced, or Stolen Items

Paragraph (b)(8) of this section addresses situations where equipment in the possession of general election committees is lost or damaged. As a general matter, the cost of lost or misplaced items may not be defrayed with public funds. However, given that there are varying degrees of responsibility in this area, the rules provide that certain factors should be considered, such as whether the committee demonstrates that it made conscientious efforts to safeguard the missing equipment; whether the committee sought or obtained insurance on the items; the type of equipment involved; and the number and value of items that were lost.

The Commission has decided to modify this paragraph to include stolen items and to add as another factor whether a police report was filed. There were no public comments on this portion of the regulations.

Section 9004.9 Net Outstanding Qualified Campaign Expenses

The amendments to the provisions governing the disposition of capital assets in section 9004.9(d)(1) are discussed below. See the Explanation and Justification for 11 CFR 9034.5(c)(1).

Part 9008—Federal Financing of Presidential Nominating Conventions and Host Committees

Section 9008.7 Use of Funds

New paragraph (c) is being added to section 9008.7 to address situations where equipment in the possession of convention committees is lost, misplaced, or stolen. The rule indicates that as a general matter, the cost of lost, misplaced, or stolen items may not be

defrayed with public funds. However, the Commission recognizes that there are varying degrees of responsibility in this area. Accordingly, the regulation also provides that certain factors should be considered, such as whether the committee demonstrates that it made conscientious efforts to safeguard the missing equipment; whether the committee sought or obtained insurance on the items; whether the committee filed a police report; the type of equipment involved; and the number and value of items that were lost. This approach is consistent with the Commission's treatment of items lost or misplaced by, or stolen from, publicly funded candidates. See 11 CFR 9004.4(b)(8) and 9034.4(b)(8). None of the public comments or testimony specifically addressed this aspect of the convention regulations.

Section 9008.14 Petitions for Rehearings; Stays of Repayment Determinations

In section 9008.14, the term "final repayment determinations" is being replaced by "repayment determinations." This amendment conforms with the changes in terminology made when the rules setting out audit and repayment procedures were last revised in 1995.

Section 9008.52 Receipts and Disbursements of Host Committees

1. Local Banks and Local Individuals

The NPRM sought comments on amending section 9008.52(c)(1), which addresses the receipt of donations by host committees. Specifically, the NPRM sought to allow local banks to donate funds and make in-kind donations for the limited purposes described in these rules. The two commenters who addressed this topic supported the proposed amendment. They found no rationale for the long standing distinction in the rules between donations from local corporations and donations from local branches of national banks. One of the commenters argued that local branches of national banks have the same interest as other local businesses in promoting the city and supporting commerce.

The Commission agrees with these comments. Consequently this amendment is being included in the attached final rules that follow. Please note that the revised rules supersede, in part, Advisory Opinion 1995-31 regarding local branches of national banks.

The second changes to section 9008.52(c)(1) concerns the categories of individuals who may donate funds or

make in-kind donations to host committees, government agencies and municipal corporations. The revisions restrict these donations to individuals who either maintain a local residence or who work for a business's local office, or a labor organization's local office, or another organization's local office. This new language is consistent with AO 1995-32 with respect to donations by individuals.

Two commenters opposed restricting donations to "local" individuals on several grounds. They argued that the Commission misinterpreted its own regulation in AO 1995-32. In addition, one commenter stated that the policy concerns regarding corporate aggregation of wealth are not applicable to individuals. This comment appears to overlook the compelling governmental purposes—preventing corruption and the appearance of corruption—that underlie the statutory restrictions on individual contributions. One of the commenters also asserted that this change to the regulation impermissibly infringes upon the First Amendment's guarantee of freedom of speech. Given that the FECA's contribution limitations were upheld in *Buckley v. Valeo*, 424 U.S. 1 (1976), in the face of a First Amendment challenge, this argument is not persuasive. In addition, one commenter also argued that there are compelling reasons why individuals residing outside the metropolitan area of the convention city would want to support the host committee. However, the comment failed to indicate what such reasons might be.

Consequently, the Commission does not find the commenters' arguments persuasive. Therefore, this change is being included in the final rules.

2. Permissible Host Committee Expenses

During the audits of the 1996 convention and host committees, a number of questions were raised as to the scope of expenses that may be paid by a host committee instead of a convention committee. Section 9008.52(c)(1) enumerates the types of expenses that host committees may defray with donated funds. Section 9008.7(a) lists the types of convention expenses that may be paid for using public funds. These two sections of the regulations are not mutually exclusive. Nor do they cover every conceivable type of expense that may arise. Consequently, the NPRM sought comments on amending one or both of these provisions to provide greater specificity regarding allowable or nonallowable expenses for convention or host committees. Disputed items have included: (1) Badges, passes or other

types of credentials used to gain entry to the convention hall or specific locations within the hall; (2) electronic vote tabulation systems; and (3) lighting and rigging costs, including paying stagehands, riggers, projectionists, electricians, and producers. The NPRM noted that with respect to lighting and rigging expenses, in particular, it can be difficult to distinguish between the costs associated with improving the infrastructure of the convention hall and the costs of producing and broadcasting the convention proceedings to the general public or to those within the convention hall. Specific changes to these regulations were not included in the NPRM.

One host committee and two national party committees urged the Commission to defer consideration and implementation of any significant changes regarding permissible host committee expenditures until after the year 2000 Presidential elections because the host committees and national party committees have already finalized their contractual arrangements for the year 2000 Presidential nominating conventions. One of these witnesses observed that the purpose and functions of host committees are nonpartisan, namely to maximize the economic benefit to the city. This party committee witness argued that the current rules are adequate and provide the flexibility necessary to accommodate the unique circumstances found in different host cities and in light of swiftly changing technology. Consequently, this witness opposed new restrictions on the goods and services that a host committee may provide. The other party committee witness indicated that it is contemplating selective use of the advisory opinion process to obtain clarification, as needed, of the existing regulations.

Given that the party committees have already entered into contractual agreements with the sites selected, the Commission has decided not to modify the existing regulations at this time with regard to the division of expenses between convention committees and host committees. Please note also that the Commission's decisions regarding the audits of the 1996 convention and host committees serve to provide additional guidance for the 2000 election cycle.

Section 9008.53 Receipts and Disbursements of Government Agencies and Municipal Corporations

The changes being made to 11 CFR 9008.53(b)(1), which governs the receipt of donations by government agencies and municipal corporations, generally

follow the revisions to section 9008.52(c)(1). Consequently, a separate fund or account of a government agency or municipality may accept donations from local banks and individuals who either maintain a local residence or who work for a business's local office, or a labor organization's local office, or another organization's local office.

Part 9032—Definitions

Section 9032.11 State

The definition of "State" in section 9032.11 is being updated by deleting the Canal Zone and by adding American Samoa, which holds Presidential primaries consisting of caucuses. There is no corresponding provision in the general election rules.

Part 9033—Eligibility for Payments

Section 9033.11 Documentation of Disbursements

The revisions to section 9033.11 follow the amendments to section 9003.5 discussed above. No public comments were received regarding these changes.

Part 9034—Entitlements

Section 9034.4 Use of Contributions and Matching Payments

1. Winding Down Costs

The regulations at 11 CFR 9034.4(a)(3) permit candidates to receive contributions and matching funds, and to make disbursements, for the purpose of defraying winding down costs over an extended period after the candidate's date of ineligibility ("DOI"). However, after the implementation of the "bright line" rules in 1995, questions arose as to whether all salary and overhead incurred after the date of the candidate's nomination must be attributed to the general election, including those associated with winding down the primary campaign. See 11 CFR 9034.4(d)(3). Accordingly, the NPRM sought comments on revising section 9034.4(a)(3)(i) and (iii) to indicate that for candidates who win their parties' nominations, no salary and overhead expenses may be treated as winding down costs until after the end of the expenditure report period, which is thirty days after the general election takes place.

The written comments of two witnesses opposed this change. One witness viewed the proposal as a "success penalty" for winning primary candidates. This witness noted that all primary candidates, whether they win or lose the nomination, must incur wind down costs. Similarly, the other witness stated that general election candidates

must incur primary campaign wind down costs during the general election period for such activities as paying debts, filing FEC reports, making matching fund submissions, and responding to FEC auditor requests in preparation for the audit. Consequently, this witness argued that the primary committees of the candidates who win the nomination should be able to pay these expenses. This comment also noted that the proposed rule would lower the amount of matching funds that could be received for these legitimate primary expenses, thereby treating winning primary candidates differently from those who lose their party's nomination.

The Commission has concluded that this area needs to be clarified. During the general election campaign, there are significant distinctions between the winding down activities of candidates who win their parties' nominations and those who do not, particularly with regard to legal and accounting compliance expenses. Accordingly, the revised rules indicate that a publicly funded primary candidate who does not run in the general election may begin to treat 100% of salary and overhead expenses as compliance after the candidate's date of ineligibility. However, federally financed primary candidates who continue on to the general election, as well as non-federally financed primary candidates who accept general election funding, must wait until after the end of the expenditure report period for the general election before they may begin treating all salary and overhead expenses as compliance expenses. Please note that the 100% figure applies to the salaries of those who continue to provide substantial services to the committee after the end of the expenditure report period. Compliance expenses between the date of nomination and the end of the expenditure report period are covered by the revisions to section 9035.1(c)(1), discussed below.

2. Lost, Misplaced, or Stolen Items

The revisions to paragraph (b)(8) of section 9034.4 follow the changes made to section 9004.4(b)(8). None of the public comments or testimony addressed this provision.

3. "Bright Line" Distinction Between Primary and General Election Expenses

Paragraph (e) of section 9034.4 sets forth certain "bright line" distinctions as to which expenses should be attributed to a candidate's primary campaign and which ones should be considered general election expenses.

Revisions are being made to this paragraph to reflect that not all candidates may accept public funding in both the primary and the general election. Nevertheless, candidates accepting federal financing for only the general election will also need guidance in attributing their expenditures between their primary election committees and their general election committees. Accordingly, paragraph (e) is being amended to indicate that it applies to Presidential campaign committees that accept federal funds for either election.

As noted above, the Commission expects to address a variety of other issues involving the bright line in a separate set of final rules to be issued at a later date.

4. Joint Primary/GELAC Solicitations

Paragraph (e)(6)(i) of section 9034.4 addresses situations where a candidate's GELAC and his or her primary committee issue joint solicitations for contributions. Under the revised rules that took effect for the 1996 elections, the costs of such solicitations were divided equally between the two committees, regardless of how much money is actually raised for each. One difficulty with this, however, was that in some situations it enabled the GELAC to absorb a relatively high portion of fundraising costs while receiving a relatively low proportion of the funds raised. Thus, this provision was at odds with the joint fundraising rules applicable to other types of joint fundraising conducted by publicly funded Presidential primary committees under 11 CFR 9034.8. In effect, section 9034.4(e)(6)(i) could permit the GELAC to subsidize fundraising expenses that would otherwise be paid by the primary committee and subject to spending limits. Questions were also raised as to whether the rule should cover only the cost of a solicitation, or whether it would be more appropriate to include other fundraising costs, such as staff salaries, consulting fees, catering, facilities rental, and the candidate's travel to the event site. Consequently, the NPRM suggested the following four alternatives to paragraph (e)(6)(i):

(1) Allocate solicitation expenses and the distribution of net proceeds from a fundraiser in the same manner as described in 11 CFR 9034.8(c)(8) (i) and (iii), which are the provisions that apply to unaffiliated committees.

(2) Prohibit joint fundraising between the primary and the GELAC. If each committee performs its own fundraising, the difficulties inherent in apportioning expenses do not arise. This approach eliminates the problem that

the recipient committees may not know which of several solicitation letters or fundraising events generated a given contribution.

(3) Treat all expenses incurred by the GELAC prior to the candidate's date of ineligibility or date of nomination as qualified campaign expenses for the primary election. This approach avoids GELAC subsidization of the primary campaign, and is easy to work with.

(4) Specify in § 9003.3(a)(2)(i)(E) that the GELAC may only pay for the following solicitation costs: printing invitations and solicitations, mailing, postage and telemarketing expenses. This approach excludes GELAC payment for catering, facilities rental, fundraising consultants, employee salaries, and travel to the event site.

Two witnesses addressed this topic in their written comments. They both supported the current 50/50 rule for its simplicity. One commenter specifically urged that this rule be expanded to cover all types of fundraising costs, including event and travel costs. The other witness indicated that it would also make sense to follow the already-established joint fundraising rules.

The Commission has decided to implement the first alternative, which treats joint primary/GELAC fundraising the same as joint fundraising by unaffiliated committees. The joint fundraising rules in § 9034.8 are well-established and have proved to work well in other contexts. Under the revisions to 9034.4(e)(6)(i), the GELAC and the primary committee must apportion their fundraising costs, including printing invitations and solicitations, mailing, postage, telemarketing expenses, catering, facilities rental, fundraising consultants, and employee salaries, using the percentage of contributions each committee receives from the joint fundraising effort. Given the unique relationship between the primary campaign and the GELAC, and the fact that the candidate's primary committee receives public financing in exchange for voluntary compliance with spending limits, it is important to ensure that costs are correctly apportioned and net proceeds are properly distributed. Under this new provision, for example, if the GELAC receives 25% of the net proceeds, it may only pay 25% of the fundraising expenses, and no more than that amount.

Section 9034.5 Net Outstanding Campaign Obligations

In determining a Presidential primary committee's net outstanding campaign obligations ("NOCO"), § 9034.5(c)(1) permits candidates to deduct 40% of the

original cost of capital assets for depreciation. Similarly, § 9004.9(d)(1) provides for a straight 40% depreciation figure for capital assets purchased by general election campaign committees for purposes of the general election committee's statement of net outstanding qualified campaign expenses ("NOQCE"). At one time, the Commission had permitted federally financed Presidential campaign committees to demonstrate that a higher depreciation was appropriate for capital assets. In 1995, as part of an effort to streamline the audit process and to establish "bright lines" between primary expenses and general election expenses, the Commission adopted the straight 40% depreciation figure for all assets purchased after the change in the regulations took effect. It was believed that situations where the 40% figure was too low would be counterbalanced by situations where the figure was too high. Experience during the 1996 Presidential audits has shown that the 40% depreciation figure is unrealistically low for capital assets such as vehicles, computer systems, telephone systems, and other equipment that is heavily used during a Presidential primary campaign.

For this reason, the NPRM sought comments on the amending § 9034.5(c)(1) to allow primary candidates to demonstrate a higher depreciation figure through documentation of the fair market value. A similar amendment was proposed for the corresponding general election provision in 11 CFR 9004.9(d). Two comments addressed this proposed change. Both of them agreed that candidates should be allowed to demonstrate a higher depreciation. As the Commission concurs, this amendment is being included in both sections of the final rules.

The NPRM also contemplated the establishment of a minimum fair market value of 60% of the purchase price in situations where a candidate's primary committee transfers or sells capital assets to his or her publicly financed general-election committee. Both comments argued that the price for assets transferred from primary to general election committee should be based on actual fair market value, which may be less, rather than an artificial percentage applicable to all types of capital assets.

The final rules include the "bright line" approach, whereby the value of transferred assets is 60% of original purchase price. The Commission has concluded that it would be too complex to determine the fair market values of every capital asset actually transferred.

The 60% figure is intended to reflect that while some capital assets are worth less, others are worth more. Sixty percent is reasonable in light of the fact that capital assets such as computer systems or telecommunications systems are customized and configured specifically to meet the needs of that particular campaign organization. It may also be of added value to the campaign staff to continue to work with familiar equipment, and to avoid the disruption that would occur if new equipment were obtained, instead. With respect to the sale of non-capital assets from the primary to the general election committee, new language in paragraph (d)(1)(iii) indicates that an inventory must be prepared. This is needed to verify the valuation included on the primary committee's NOCO statement as well as the amount listed on the general election committee's NOQCE statement.

The revised regulations in 11 CFR 9004.9(d) indicate that once the general election campaign is over, the value of assets obtained from the primary campaign committee shall be listed on the NOQCE statement as 20% of the original cost to the primary committee. Please note that campaigns do not have the option of demonstrating that an amount less than 20% is appropriate. Based on past experience, the Commission has concluded that a 20% residual value is a realistic figure for equipment that has been used throughout both the primary and general election campaigns.

The commenters argued that this figure should also be based on actual fair market value, which may be less, rather than an artificial percentage applicable to all types of capital assets. Nevertheless, the Commission has concluded that this is another area where it would be too complex to determine the fair market values of every capital asset on hand. Some capital assets may be worth less, while others may be worth more. Accordingly, the revisions to 11 CFR 9004.9(d) incorporate the 20% residual value figure. Please note that the general election committee may, if it wishes, sell these capital assets to the GELAC for the 20% residual value.

Another revision included in 11 CFR 9004.9 and 9034.5 is a clarification of the term "capital asset." A new sentence is being added to sections 9004.9(d) and 9034.5(c)(1) to indicate that when the components of a system, such as a computer system or a telecommunications system, are used together and the total cost of the components exceeds \$2000, the entire system is considered a capital asset.

This new language conforms to the Commission's previous interpretation of its rules. See Explanation and Justification for 11 CFR 9034.5, 60 FR 31868 (June 16, 1995). The NPRM sought comments on whether computer software should be treated as a capital asset. One commenter argued that software should not be considered to be a capital asset because the vendors' licensing agreements may bar transfer of the software. The Commission notes that some software programs may be sold as a package together with a computer system, thus making it impracticable to list them as separate capital assets on a NOCO statement.

Lastly, please note that an incorrect reference to the date of ineligibility in paragraph (d)(1)(i) of section 9004.9 has been changed to refer to the end of the expenditure report period.

Part 9035—Expenditure Limitations

Section 9035.1 Campaign Expenditure Limitation; Compliance and Fundraising Exemptions

The rules at 11 CFR 9035.1(c)(1) set forth an exemption from the overall spending limit for legal and accounting compliance costs incurred by federally financed Presidential primary committees. In the past, to claim this exemption, campaign committees have had to keep detailed records of salary and overhead expenses, including records indicating which duties are considered compliance and the percentage of time each person spends on such activities. The NPRM sought to amend this regulation to provide a simpler and easier method of calculating the compliance exemption. Accordingly, comments were sought on revising this paragraph to state that an amount equal to 10% of all operating expenditures for each reporting period may be treated as compliance expenses not subject to the candidate's spending limit. The NPRM noted that this amount could be readily derived from line 23, Operating Expenses, on the committee's reports.

Several commenters and witnesses stressed the importance of implementing policies that encourage candidates to spend money to achieve voluntary compliance with the campaign financing laws. Consequently, some of these opposed establishing an upper limit of 10% of operating costs that could be spent for compliance costs, arguing that the Commission should not discourage spending more money on compliance. They also pointed out that compliance costs may be unrelated to the overall amount of operating costs, and that committees

having low operating costs could be disadvantaged. One witness urged the Commission to let committees demonstrate that their actual legal and accounting costs are higher than the standard percentage.

The Commission agrees that it is not sound policy to artificially limit or discourage compliance spending. Nevertheless, establishing a "standard deduction" for compliance has the advantage of simplicity and ease of application. Consequently, the Commission has decided to modify the initial proposal so that an amount equal to 15% of the candidate's overall expenditure limit may be excluded as exempt legal and accounting compliance costs under 11 CFR 100.8(b)(15). A review of previous Presidential campaigns indicates that this figure approximates the upper amount publicly funded primary committees have spent in previous election cycles. Unlike the initial proposal, this approach is not tied to monthly operating expenditures. Thus, it allows for greater flexibility in earlier reporting periods when committees may be setting up their legal and accounting systems. A similar approach has worked well with respect to fundraising expenses. See 11 CFR 100.8(b)(21) and 9035.1(c)(2). Note that the final rule does not permit committees to demonstrate that they have actually incurred a higher amount because the Commission is seeking to move away from its previous resource-intensive system that required the creation, maintenance, and review of considerable paperwork to document compliance costs. However, as explained above, in addition to the 15% of the overall spending limits, publicly funded primary candidates may also treat 100% of their overhead and salary expenses as exempt compliance costs after their date of ineligibility or after the end of the expenditure report period. These changes to the regulations are intended to decrease the time it takes for the Commission to verify compliance costs during the audit process. They should also reduce the resources campaign committees must devote to tracking compliance costs.

Please note that the title of section 9035.1 is also being revised and subheadings for each paragraph are being added to assist readers in locating the material in this section more easily.

Part 9036—Review of Matching Fund Submissions and Certification of Payments by Commission

Section 9036.1 Threshold Submission

During the 1996 Presidential election cycle, the Commission instituted a new program whereby primary campaign committees may submit contributions for matching fund payments through the use of digital imaging technology such as computer CD ROMs, instead of submitting paper photocopies of checks and deposit slips. For the 2000 election cycle, the Commission is expanding this program to permit the use of digital imaging for primary committees' threshold submissions. See new language in paragraph (b)(3) of section 9036.1. Please note that committees wishing to submit paper records and documentation, instead of digital images, may do so. The only written set of comments to address this topic supported the submission of this documentation via CD ROM.

Section 9036.2 Additional Submissions for Matching Fund Payments

Paragraph (b)(1)(vi) of this section is being revised to enable primary committees to submit digital images of contributor redesignations, reattributions and supporting statements and materials needed to establish the matchability of contributions. The single set of written comments to address this topic indicated that it would be burdensome for committees to maintain paper copies of original documentation other than contributor cards and affidavits. The Commission notes that the amendment to the regulations is only intended to give Presidential primary committees the option, in lieu of paper submissions, of electronically submitting digital images of contributor redesignations, contributor reattributions and the types of supporting statements commonly found on contributor cards. The requirements of 11 CFR 110.1(l) for maintaining the original documents are not being changed. Hence, revised section 9036.2 does not impose additional recordkeeping burdens on Presidential committees.

Additional Issues

During the course of this rulemaking, the Commission considered other possible changes to the regulations that it did not ultimately incorporate into the final rules. A summary of these proposals follows.

1. Allocation of Presidential Travel Costs

The Commission's regulations at 11 CFR 9004.7 and 9034.7 govern the allocation of travel expenses when other candidates or elected officials accompany a publicly funded Presidential candidate, or such candidate's staff, on campaign-related trips. One commenter addressed several differences between these rules and the provisions of 11 CFR 106.3 governing travel expenses for Congressional candidates and for Presidential candidates who don't accept federal funds for their campaigns.

The Commission has concluded that these proposals are beyond the scope of this rulemaking. At a later date, however, they may be included in a new rulemaking addressing possible revisions to 11 CFR 106.3. Changes in this area would impact all federal candidates, not just those who have or are running for President and have accepted federal funding for their campaigns. Thus, the Commission would want to have the benefit of obtaining comments from non-Presidential candidates before promulgating new rules that would affect them. In addition, to the extent possible, the Commission would need to closely consider consistency with Congressional guidelines regarding travel.

2. Aircraft Owned by Individuals and Charter Rates

The Commission's regulations at 11 CFR 114.9(e) create exceptions to the definitions of contribution and expenditure to allow candidates and their campaign staff to travel on aircraft owned by corporations or labor organizations if they provide reimbursement within specified time periods. Similarly, 11 CFR 9004.7 and 9034.7 provide for reimbursement for campaign-related travel on government aircraft such as Air Force One or Air Force Two. However, no comparable provisions cover travel on aircraft owned by individuals, partnerships or other unincorporated entities. One commenter urged the Commission to amend its regulations to apply the same first-class reimbursement requirement to travel on private aircraft regardless of the nature of the owner of the aircraft. With regard to travel between cities not having first class service, the commenter urged the Commission to let authorized committees use the "lowest available" charter rate instead of the "usual" charter rate.

For some of the reasons mentioned above, the Commission has concluded

that these proposals are beyond the scope of this rulemaking. They could, however, be included in a new Notice of Proposed Rulemaking at a later date. Changes of this nature would impact all federal candidates, not just those who have are running for President and have accepted federal funding for their campaigns. Thus, the Commission would want to have the benefit of obtaining comments from non-Presidential candidates before promulgating new rules that would affect them. In addition, this complex area is also subject to regulation by the Federal Aviation Administration, and consultation with that agency would be advisable before issuing final rules. Similarly, the Commission would need to carefully consider the consistency of its rules with Congressional guidelines regarding travel.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that very few small entities will be affected by these proposed rules, and the cost is not expected to be significant. Further, any small entities affected have voluntarily chosen to receive public funding and to comply with the requirements of the Presidential Election Campaign Fund Act or the Presidential Primary Matching Payment Account Act in these areas.

List of Subjects

11 CFR Part 9003

Campaign funds, Reporting and recordkeeping requirements

11 CFR Part 9004

Campaign funds

11 CFR Part 9008

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements

11 CFR Part 9032.

Campaign funds.

11 CFR Parts 9033—9035

Campaign funds, Reporting and recordkeeping requirements.

11 CFR Part 9036

Administrative practice and procedure, Campaign funds, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Subchapters E and F of Chapter I of Title 11 of the *Code of Federal Regulations* are amended as follows:

PART 9003—ELIGIBILITY FOR PAYMENTS

1. The authority citation for Part 9003 continues to read as follows:

Authority: 26 U.S.C. 9003 and 9009(b).

2. In § 9003.3, the headings for paragraphs (a) and (a)(1) are republished, and the section heading, the introductory text of paragraph (a)(1)(i), and paragraph (a)(1)(i)(A) are revised to read as follows:

§ 9003.3 Allowable contributions; General election legal and accounting compliance fund.

(a) *Legal and accounting compliance fund—major party candidates.*

(1) *Sources.*

(i) A major party candidate, or an individual who is seeking the nomination of a major party, may accept contributions to a legal and accounting compliance fund if such contributions are received and disbursed in accordance with this section. A general election legal and accounting compliance fund (“GELAC”) may be established by such individual prior to being nominated or selected as the candidate of a political party for the office of President or Vice President of the United States. Before June 1 of the calendar year in which a Presidential general election is held, contributions may only be deposited in the GELAC if they are made for the primary and exceed the contributor’s contribution limits for the primary and are lawfully redesignated by the contributor for the GELAC pursuant to 11 CFR 110.1.

(A) All solicitations for contributions to the GELAC shall clearly state that Federal law prohibits private contributions from being used for the candidate’s election and that contributions will be used solely for legal and accounting services to ensure compliance with Federal law, and shall clearly state how contribution checks should be made payable. Contributions shall not be solicited for the GELAC before June 1 of the calendar year in which a Presidential general election is held. If the candidate does not become the nominee, all contributions accepted for the GELAC, including redesignated contributions, shall be refunded within sixty (60) days after the candidate’s date of ineligibility.

* * * * *

3. Section 9003.5 is amended by revising paragraphs (b)(1)(iv) and (b)(3)(ii) to read as follows:

§ 9003.5 Documentation of disbursements.

* * * * *

(b) * * *

(1) * * *

(iv) If the purpose of the disbursement is not stated in the accompanying documentation, it must be indicated on the canceled check negotiated by the payee.

* * * * *

(3) * * *

(ii) *Purpose* means the full name and mailing address of the payee, the date and amount of the disbursement, and a brief description of the goods or services purchased. Examples of acceptable and unacceptable descriptions of goods and services purchased are listed at 11 CFR 104.3(b)(3)(i)(B).

* * * * *

PART 9004—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

4. The authority citation for part 9004 continues to read as follows:

Authority: 26 U.S.C. 9004 and 9009(b).

5. Section 9004.4 is amended by revising paragraphs (a)(4) and (b)(8) to read as follows:

§ 9004.4 Use of payments.

(a) * * *

(4) *Winding down costs.* The following costs shall be considered qualified campaign expenses:

(i) Costs associated with the termination of the candidate’s general election campaign such as complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and

(ii) Costs associated with the candidate’s general election campaign and incurred by the candidate prior to the end of the expenditure report period for which written arrangement or commitment was made on or before the close of the expenditure report period.

* * * * *

(b) * * *

(8) *Lost, misplaced, or stolen items.* The cost of lost, misplaced, or stolen items may be considered a nonqualified campaign expense. Factors considered by the Commission in making this determination shall include, but not be limited to, whether the committee demonstrates that it made conscientious efforts to safeguard the missing equipment; whether the committee sought or obtained insurance on the items; whether the committee filed a police report; the type of equipment involved; and the number and value of items that were lost.

6. Section 9004.9 is amended by revising paragraph (d)(1) to read as follows:

§ 9004.9 Net outstanding qualified campaign expenses.

* * * * *

(d) (1) *Capital assets and assets purchased from the primary election committee.*

(i) For purposes of this section, the term *capital asset* means any property used in the operation of the campaign whose purchase price exceeded \$2000 when acquired by the committee. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under paragraph (d)(2) of this section. Capital assets include items such as computer systems and telecommunications systems, if the equipment is used together and if the total cost of all components that are used together exceeds \$2000. A list of all capital assets shall be maintained by the committee in accordance with 11 CFR 9003.5(d)(1). The fair market value of capital assets shall be considered to be 60% of the total original cost of such items when acquired, except that items received after the end of the expenditure report period must be valued at their fair market value on the date acquired. A candidate may claim a lower fair market value for a capital asset by listing that capital asset on the statement separately and demonstrating, through documentation, the lower fair market value.

(ii) If capital assets are obtained from the candidate's primary election committee, the purchase price shall be considered to be 60% of the original cost of such assets to the candidate's primary election committee. For purposes of the statement of net outstanding qualified campaign expenses filed after the end of the expenditure report period, the fair market value of capital assets obtained from the candidate's primary election committee shall be considered to be 20% of the original cost of such assets to the candidate's primary election committee.

(iii) Items purchased from the primary election committee that are not capital assets, and also are not other assets under paragraph (d)(2) of this section, shall be listed on an inventory that states their valuation.

* * * * *

PART 9008—FEDERAL FINANCING OF PRESIDENTIAL NOMINATING CONVENTIONS

7. The authority citation for part 9008 continues to read as follows:

Authority: 2 U.S.C. 437, 438(a)(8); 26 U.S.C. 9008 and 9009(b).

8. Section 9008.7 is amended by adding new paragraph (c) to read as follows:

§ 9008.7 Use of funds.

* * * * *

(c) *Lost, misplaced, or stolen items.* The cost of lost, misplaced, or stolen items may not be defrayed with public funds under certain circumstances. Factors considered by the Commission in making this determination shall include, but not be limited to, whether the committee demonstrates that it made conscientious efforts to safeguard the missing equipment; whether the committee sought or obtained insurance on the items; whether the committee filed a police report; the type of equipment involved; and the number and value of items that were lost.

9. Section 9008.14 is revised to read as follows:

§ 9008.14 Petitions for rehearing; stays of repayment determinations.

Petitions for rehearing following the Commission's repayment determination and requests for stays of repayment determinations will be governed by the procedures set forth at 11 CFR 9007.5 and 9038.5. The Commission will afford convention committees the same rights as are provided to publicly funded candidates under 11 CFR 9007.5 and 9038.5.

10. Section 9008.52 is amended by republishing the heading of paragraph (c), and by revising the introductory text of paragraph (c)(1) to read as follows:

§ 9008.52 Receipts and disbursements of host committees.

* * * * *

(c) *Receipt of donations from local businesses and organizations.* (1) Local businesses (including banks), local labor organizations, and other local organizations or individuals who maintain a local residence or who work for a local business, local labor organization, or local organization may donate funds or make in-kind donations to a host committee to be used for the following purposes:

* * * * *

11. Section 9008.53 is amended by republishing the heading of paragraph (b), and by revising the introductory language of paragraph (b)(1) to read as follows:

§ 9008.53 Receipts and disbursements of government agencies and municipal corporations.

* * * * *

(b) *Receipt of donations to a separate fund or account.* (1) Local businesses (including banks), local labor organizations, and other local organizations or individuals who maintain a local residence or who work for a local business, local labor organization, or local organization may donate funds or make in-kind donations to a separate fund or account of a government agency or municipality to pay for expenses listed in 11 CFR 9008.52(c), provided that:

* * * * *

PART 9032—DEFINITIONS

12. The authority citation for part 9032 continues to read as follows:

Authority: 26 U.S.C. 9032 and 9039(b).

13. Section 9032.11 is revised to read as follows:

§ 9032.11 State.

State means each State of the United States, Puerto Rico, American Samoa, the Virgin Islands, the District of Columbia, and Guam.

PART 9033—ELIGIBILITY FOR PAYMENTS

14. The authority citation for Part 9033 continues to read as follows:

Authority: 26 U.S.C. 9003(e), 9033 and 9039(b).

15. Section 9033.11 is amended by revising paragraphs (b)(1)(iv) and (b)(3)(ii) to read as follows:

§ 9033.11 Documentation of disbursements.

* * * * *

(b) * * *
(1) * * *

(iv) If the purpose of the disbursement is not stated in the accompanying documentation, it must be indicated on the canceled check negotiated by the payee.

* * * * *

(3) * * *

(ii) *Purpose* means the full name and mailing address of the payee, the date and amount of the disbursement, and a brief description of the goods or services purchased. Examples of acceptable and unacceptable descriptions of goods and services purchased are listed at 11 CFR 104.3(b)(3)(i)(B).

* * * * *

PART 9034—ENTITLEMENTS

16. The authority citation for Part 9034 continues to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

17. Section 9034.4 is amended by revising paragraph (a)(3)(iii), paragraph (b)(8), the heading and introductory text of paragraph (e), and paragraph (e)(6)(i) to read as follows:

§ 9034.4 Use of contributions and matching payments.

- (a) * * *
- (3) * * *

(iii) In the case of a candidate who does not receive public funding for the general election, for purposes of the expenditure limitations set forth in 11 CFR 9035.1, 100% of salary, overhead and computer expenses incurred after a candidate's date of ineligibility may be treated as exempt legal and accounting compliance expenses beginning with the first full reporting period after the candidate's date of ineligibility. For candidates who continue to campaign or re-establish eligibility, this paragraph shall not apply to expenses incurred during the period between the date of ineligibility and the date on which the candidate either re-establishes eligibility or ceases to continue to campaign. For purposes of the expenditure limitations set forth in 11 CFR 9035.1, candidates who receive public funding for the general election must wait until the end of the expenditure report period described in 11 CFR 9002.12 before they may treat 100% of salary, overhead and computer expenses as exempt legal and accounting compliance expenses.

* * * * *

- (b) * * *

(8) *Lost, misplaced, or stolen items.* The cost of lost, misplaced, or stolen items may be considered a nonqualified campaign expense. Factors considered by the Commission in making this determination shall include, but not be limited to, whether the committee demonstrates that it made conscientious efforts to safeguard the missing equipment; whether the committee sought or obtained insurance on the items; whether the committee filed a police report; the type of equipment involved; and the number and value of items that were lost.

* * * * *

(e) *Attribution of expenditures between the primary and the general election spending limits.* The following rules apply to candidates who receive public funding in either the primary or the general election, or both.

* * * * *

- (6) * * *

(i) *Solicitations and fundraising costs.* The costs of fundraising, including that of events and solicitation costs, shall be attributed to the primary election or to

the GELAC, depending on the purposes of the fundraising. If a candidate raises funds for both the primary election and for the GELAC in a single communication or through a single fundraising event, the allocation of fundraising costs and the distribution of net proceeds will be made in the same manner as described in 11 CFR 9034.8(c)(8)(i) and (ii).

* * * * *

18. Section 9034.5 is amended by revising paragraph (c)(1) to read as follows:

§ 9034.5 Net outstanding campaign obligations.

* * * * *

(c) (1) *Capital assets.* For purposes of this section, the term *capital asset* means any property used in the operation of the campaign whose purchase price exceeded \$2000 when received by the committee. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under paragraph (c)(2) of this section. Capital assets include items such as computer systems and telecommunications systems, if the equipment is used together and if the total cost of all components that are used together exceeds \$2000. A list of all capital assets shall be maintained by the committee in accordance with 11 CFR 9033.11(d). The fair market value of capital assets shall be considered to be 60% of the total original cost of such items when acquired, except that items received after the date of ineligibility must be valued at their fair market value on the date received. A candidate may claim a lower fair market value for a capital asset by listing that capital asset on the statement separately and demonstrating, through documentation, the lower fair market value. If the candidate receives public funding for the general election, a lower fair market value shall not be claimed under this section for any capital assets transferred or sold to the candidate's general election committee.

* * * * *

PART 9035—EXPENDITURE LIMITATIONS

19. The authority citation for part 9035 continues to read as follows:

Authority: 26 U.S.C. 9035 and 9039(b).

20. Section 9035.1 is revised to read as follows:

§ 9035.1 Campaign expenditure limitation; compliance and fundraising exemptions.

(a) *Spending limit.* (1) No candidate or his or her authorized committee(s) shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which expenditures, in the aggregate, exceed \$10,000,000 (as adjusted under 2 U.S.C. 441a(c)), except that the aggregate expenditures by a candidate in any one State shall not exceed the greater of: 16 cents (as adjusted under 2 U.S.C. 441a(c)) multiplied by the voting age population of the State (as certified under 2 U.S.C. 441a(e)); or \$200,000 (as adjusted under 2 U.S.C. 441a(c)).

(2) The Commission will calculate the amount of expenditures attributable to the overall expenditure limit or to a particular state using the full amounts originally charged for goods and services rendered to the committee and not the amounts for which such obligations were settled and paid, unless the committee can demonstrate that the lower amount paid reflects a reasonable settlement of a bona fide dispute with the creditor.

(b) *Allocation of expenditures.* Each candidate receiving or expecting to receive matching funds under this subchapter shall also allocate his or her expenditures in accordance with the provisions of 11 CFR 106.2.

(c) *Compliance and fundraising exemptions.* (1) A candidate may exclude from the overall expenditure limitation set forth in paragraph (a) of this section an amount equal to 15% of the overall expenditure limitation as exempt legal and accounting compliance costs under 11 CFR 100.8(b)(15).

(2) A candidate may exclude from the overall expenditure limitation of 11 CFR 9035.1 the amount of exempt fundraising costs specified in 11 CFR 100.8(b)(21)(iii).

(d) *Candidates not receiving matching funds.* The expenditure limitations of 11 CFR 9035.1 shall not apply to a candidate who does not receive matching funds at any time during the matching payment period.

21. The title of Part 9036 is revised to read as follows:

PART 9036—REVIEW OF MATCHING FUND SUBMISSIONS AND CERTIFICATION OF PAYMENTS BY COMMISSION

22. The authority citation for Part 9036 continues to read as follows:

Authority: 26 U.S.C. 9036 and 9039(b).

23. Section 9036.1 is amended by revising paragraph (b)(3) to read as follows:

§ 9036.1 Threshold submission.

* * * * *

(b) * * *

(3) The candidate shall submit a full-size photocopy of each check or written instrument and of supporting documentation in accordance with 11 CFR 9034.2 for each contribution that the candidate submits to establish eligibility for matching funds. For purposes of the threshold submission, the photocopies shall be segregated alphabetically by contributor within each State, and shall be accompanied by and referenced to copies of the relevant deposit slips. In lieu of submitting photocopies, the candidate may submit digital images of checks and other materials in accordance with the procedures specified in 11 CFR 9036.2(b)(1)(vi). Digital images of contributions do not need to be segregated alphabetically by contributor within each State.

* * * * *

24. Section 9036.2 is amended by revising paragraph (b)(1)(vi) to read as follows:

§ 9036.2 Additional submissions for matching fund payments.

* * * * *

(b) * * *

(1) * * *

(vi) The photocopies of each check or written instrument and of supporting documentation shall either be alphabetized and referenced to copies of the relevant deposit slip, but not segregated by State as required in the threshold submission; or such photocopies may be batched in deposits of 50 contributions or less and cross-referenced by deposit number and sequence number within each deposit on the contributor list. In lieu of submitting photocopies, the candidate may submit digital images of checks, written instruments and deposit slips as specified in the Computerized Magnetic Media Requirements. The candidate may also submit digital images of contributor redesignations, reattributions and supporting statements and materials needed to verify the matchability of contributions. The candidate shall provide the computer equipment and software needed to retrieve and read the digital images, if necessary, at no cost to the Commission, and shall include digital images of every contribution received and imaged on or after the date of the previous matching fund request. Contributions and other documentation not imaged shall be submitted in photocopy form. The candidate shall maintain the originals of all contributor redesignations, reattributions and supporting statements

and materials that are submitted for matching as digital images.

* * * * *

Dated: September 7, 1999.

Scott E. Thomas,
Chairman, Federal Election Commission.
 [FR Doc. 99-23578 Filed 9-10-99; 8:45 am]
BILLING CODE 6715-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE153, Special Condition 23-096-SC]

Special Conditions; Meridian PA-46-400TP

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960 for a type certificate for the Meridian PA-46-400TP airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is August 27, 1999. Comments must be received on or before October 13, 1999.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. CE153, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE153. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft

Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426-6941.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to CE153." The postcard will be date stamped and returned to the commenter.

Background

On February 12, 1997, The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960, made an application to the FAA for a new Type Certificate for the Meridian PA-46-400TP airplane. The Meridian is a derivative of the PA-46-350P Malibu Mirage currently approved under TC No. A25SO. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, The New Piper Aircraft, Inc., must show that the Meridian PA-