Rules and Regulations

Federal Register
Vol. 64, No. 150
Thursday, August 5, 1999

FEDERAL ELECTION COMMISSION

11 CFR Parts 110, 9004, and 9034

[Notice 1999–13]

Party Committee Coordinated Expenditures; Costs of Media Travel With Publicly Financed Presidential Candidates

AGENCY: Federal Election Commission.

ACTION: Final Rule and Transmittal of Regulations to Congress.

SUMMARY: The Commission is revising two portions of its regulations governing publicly financed Presidential primary and general election candidates. These rules address the costs of transportation and ground services that federally funded Presidential primary and general election campaigns may pass on to the news media covering their campaigns, as well as party committee coordinated expenditures that are made before the date their candidates receive the nomination. Further information is provided in the supplementary information which 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 2 U.S.C. 438(d) and 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 certain aspects of the public financing of Presidential campaigns. Specifically, the amended rules at 11 CFR 9004.6 and 9034.6 govern transportation and services provided by federally funded Presidential candidates to the news media covering their campaigns. Also included are amendments to 11 CFR 110.7, regarding coordinated expenditures by political party committees on behalf of their Presidential and Congressional candidates that are made before the date these candidates are nominated by their political parties. These regulations implement section 441a(d) of the Federal election Campaign Act (''FECA''), section 9004 of the Presidential Election Campaign Fund Act (''Fund Act'') and section 9034 of the Presidential Primary Matching Payment Account Act (''Matching Payment Act''). *See* 2 U.S.C. 441a(d), and 26 U.S.C. 9004 and 9034. The Fund Act and the Matching Payment Act establish eligibility requirements for Presidential candidates seeking public financing, and indicate how funds received under the public financing system may be spent.

On May 5, 1997, the Commission issued a Notice of Proposed Rulemaking (''1997 NPRM'') in which it sought comments on proposed revisions to the coordinated expenditure provisions of 11 CFR 110.7. *See* 62 F.R. 24367 (May 5, 1997). Written comments were received from the Internal Revenue Service (IRS), the Chamber of Commerce, the National Right to Life Committee (NRLC), the Republican National Committee (RNC), the National Republican Senatorial Committee (NRSC), the National Republican Congressional Committee (NRCC), the Democratic National Committee (DNC), a joint comment from the Democratic Senatorial Campaign Committee (DSCC) and the Democratic Congressional Campaign Committee (DCCC), and Common Cause. A public hearing was held on June 18, 1997, at which witnesses testified on behalf of the DNC, the RNC, the NRLC, the NRSC, the DSCC and the DCCC, and Common Cause. The IRS indicated that it found no conflict with the Internal Revenue Code or regulations thereunder. Subsequently, the consideration of final rules was postponed pending the outcome of litigation that could materially affect the policies at issue.

On December 16, 1998, the Commission published a new Notice of Proposed Rulemaking (''1998 NPRM'') putting forth proposed amendments to its rules governing publicly financed Presidential primary and general election candidates. *See* 63 F.R. 69524 (Dec. 16, 1998). Issues concerning coordination between party committees and their Presidential candidates, which had been raised in the earlier rulemaking, were also included in the public funding rulemaking. In response to the 1998 NPRM, written comments on coordinated expenditures were received from 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); the DNC; and the RNC. Subsequently, the Commission reopened the comment period and held a public hearing on March 24, 1999, at which the following four witnesses presented testimony on the coordination issues: Lyn Utrecht (Ryan, Phillips, Utrecht & MacKinnon), Joseph E. Sandler (DNC), Thomas J. Josefiak (RNC), and James Bopp, Jr. (James Madison Center for Free Speech).

The 1998 NPRM also sought comments on proposed revisions to the regulations at 11 CFR 9004.6 and 9034.6 regarding media travel. Written comments on the media travel issues were received from Lyn Utrecht, Eric Kleinfeld, and Patricia Fiori (joint comment); the DNC; the RNC; and Carl P. Leubsdorf and twenty eight other executives of news organizations (joint comment). At the public hearing on March 24, 1999, the following witnesses presented testimony on the media travel rules: Kim Hume (Fox News), George Condon (Copley News Service), and Thomas J. Josefiak (RNC). The Internal Revenue Service stated that it has reviewed the NPRM and finds no conflict with the Internal Revenue Code or regulations thereunder. The comments and testimony on both topics are discussed in more detail below.

Please note, the Commission published previously final rules modifying the candidate agreement provisions so that federally-financed Presidential committees must electronically file their reports, as well as final rules governing the matchability of contributions made by credit and debit cards, including those transmitted over the Internet. *See* Explanation and Justification, 63 FR 45679 (August 27, 1998) (electronic filing) and Explanation and Justification, 64 FR 32394 (June 17, 1999) (matchability). The effective

date for the electronic filing regulations is November 13, 1998. *See* Announcement of Effective Date, 63 FR 63388 (November 13, 1998). An effective date for the matching fund rules will be announced once those regulations have been before Congress for thirty legislative days.

Section 438(d) of Title 2 and 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 2 or 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 July 30, 1999.

Explanation and Justification

Section 110.7 Party Committee Coordinated Expenditures and Spending Limits (2 U.S.C. 441a(d))

Section 441a(d) permits national, state, and local committees of political parties to make limited general election campaign expenditures on behalf of their candidates, which are in addition to the amount they may contribute directly to those candidates. 2 U.S.C. 441a(d). These section 441a(d) expenditures are commonly referred to as ''coordinated party expenditures'' because such expenditures can be made after extensive consultation with the candidates and their campaign staffs.[1] However, party committees have never had to demonstrate actual ''coordination'' with their candidates to avail themselves of this additional spending limit.

Section 110.7 of the Commission's regulations implements the statutory exception to the contribution limits set forth at 2 U.S.C. 441a. Former paragraph (b)(4) of this section had presumed that party committees were incapable of making independent expenditures. This regulation was implicated by the Supreme Court's plurality opinion in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission,* 518 U.S. 604 (1996) (*Colorado*). In that decision, the Court concluded that political parties are capable of making independent expenditures on behalf of their candidates for federal office, and that it would violate the First Amendment to subject such independent expenditures to the expenditure limits found in section 441a(d) of the FECA. *Id.* at 613–14.

Following the *Colorado* Supreme Court decision, the Commission promulgated a Final Rule on August 7, 1996 that repealed paragraph (b)(4) of § 110.7 to the extent that this paragraph prohibited national committees of political parties from making independent expenditures for congressional candidates. 61 FR 40961 (Aug. 7, 1996). On the same date, the Commission also published a Notice of Availability seeking comment on other significant issues arising from the *Colorado* decision. 61 FR 41036 (Aug. 7, 1996). These included possible amendments to 11 CFR Part 109 and 11 CFR 110.7 to provide standards for determining when expenditures qualify as ''independent'' or are considered ''coordinated'' with Congressional and Presidential candidates. Another issue raised was whether to modify or repeal the rule barring national party committees from making independent expenditures on behalf of Presidential candidates in the general election. *See* 11 CFR 110.7(a)(5). Given that the *Colorado* decision concerned a Senatorial election, the Supreme Court specifically noted in the opinion that it was not addressing issues that might grow out of the public funding of Presidential campaigns. *Colorado,* 518 U.S. at 612.

As explained above, the Commission also issued two Notices of Proposed Rulemaking and held two public hearings on proposed revisions to the coordinated expenditure regulations. *See* 62 F.R. 24367 (May 5, 1997) and 63 F.R. 69524 (Dec. 16, 1998). For example, the 1998 NPRM put forward narrative proposals regarding a content-based standard for coordinated communications made to the general public. It also sought comment on coordination between the national committees of political parties and their Presidential candidates with respect to poll results, media production, consultants, and employees whose services are intended to benefit the parties' eventual Presidential nominees.

At this point, the Commission is continuing to evaluate possible amendments to 11 CFR 110.7 and 109.1 regarding the definitions of ''coordinated'' and ''independent'' expenditures, the standards applicable to party committee advertisements directed to the general public, and the possible repeal or modification of 11 CFR 110.7(a)(5), which currently bars national party committees from making independent expenditures in connection with Presidential general election campaigns. Consequently, revised proposals on these topics may be put out for additional public comment in the future.

However, with respect to pre-nomination coordinated expenditures, the Commission is promulgating new paragraph (d) of section 110.7, which is consistent with its previous policy permitting coordinated expenditures to be made before the date of the primary election. *See, e.g.,* Advisory Opinion 1984–15 (''[N]othing in the Act, its legislative history, Commission regulations, or court decisions indicates that coordinated party expenditures must be restricted to the time period between nomination and the general election.''); *see also* AO 1985–14. Please note, however, that other aspects of these advisory opinions may be modified or superseded by subsequent Commission decisions regarding the remaining coordination issues.

With regard to prenomination coordinated expenditures, one of the commenters on the 1998 NPRM indicated that the current state of the law is clear, based on AOs 1984–15 and 1985–14, and there is no need to revise the rules. This party committee also noted that its own rules preclude it from supporting a Presidential candidate until that candidate has sufficient delegates to be nominated. In contrast, other commenters urged the Commission to state explicitly in the regulations that political party committees may make 441a(d) expenditures before the general election campaign period. However, one of these commenters opposed a requirement that all pre-nomination expenditures count against the party's 441a(d) limit. The commenter did not think it would be fair to count party expenditures against the coordinated spending limits if they were for positive communications supporting an anticipated nominee who was later forced to withdraw, for example, due to illness.

The Commission has concluded that it is advisable to include language in 11 CFR 110.7 that specifically sets forth the Commission's past policy of permitting pre-nomination coordinated expenditures for the general election. Accordingly, new language at paragraph (d) of section 110.7 covers all Presidential candidates, whether or not they receive federal funding, as well as Congressional candidates. To issue new rules that only apply to Presidential candidates would create the implication that coordinated expenditures for House and Senate candidates are subject to different standards, thereby generating needless confusion. The Commission

[1] The coordinated spending limits were invalidated on Constitutional grounds by one district court in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission,* 41 F. Supp.2d 1197 (D. Co.o. 1999) on remand from 518 U.S. 604 (1996). This case is being appealed.

does not agree with the commenters who opposed counting ''positive'' pre-nomination expenditures against the 441a(d) limits if another candidate receives the party's nomination. For one thing, this approach would create a distinction between positive ads supporting the party's candidate and negative ads opposing other candidates. There is no apparent basis in the FECA or its legislative history for this type of distinction. In addition, there may be some situations where a party committee ad contains both positive messages about the party and its candidate as well as negative messages about the opposition.

Section 9004.6 Expenditures for Transportation and Services Made Available to Media Personnel; Reimbursements

Section 9004.6 of the Commission's regulations contains provisions governing expenditures by federally financed committees for transportation and other services provided to representatives of the news media covering the Presidential general election campaigns. These rules indicate that expenditures for these purposes will, in most cases, be treated as qualified campaign expenses subject to the overall spending limitations of section 9003.2. Parallel provisions regarding Presidential primary campaigns are located at 11 CFR 9034.6.

However, section 9004.6 also allows committees to accept limited reimbursement for these expenses from the media, and to deduct any reimbursements received from the amount of expenditures subject to the overall expenditure limitation. These rules set limits on the amount of reimbursement that a committee can accept, and require committees to pay a portion of any reimbursement that exceeds those limits to the U.S. Treasury. Section 9004.6(b) limits the reimbursements to 110% of a media representative's *pro rata* share of the actual cost of the transportation and services made available. Please note that the additional 10% generally corresponds to the amount the White House Travel Office bills the press for expenses associated with government employees directly supporting the press. The regulations specify that the *pro rata* share is calculated by dividing the total actual cost of the transportation and services provided by the total number of individuals to whom such transportation and services are made available. Under the revisions to this provision, the total number of individuals has not been changed, and thus continues to include committee staff, media personnel, Secret Service and others.

During the last Presidential election cycle, a number of disputes arose between the media and certain campaigns regarding charges billed to the press. The disputes concerned the types of expenses that relate to media coverage of campaign events as distinguished from the costs of staging those campaign events. Another issue centered on the ability of the campaigns to charge all press representatives for the use of ground facilities, not just those who travel with the candidate. The third issue concerned the perceived lateness and lack of specificity in the bills received for media costs.

1. Types of Costs That May Be Charged to the Media

The 1998 NPRM sought comments on whether the rules should be revised to include lists of allowable and nonallowable expenses that may be charged to the media for ground costs. Disputed items have included security services for the press, sound and lighting equipment, press risers and camera platforms, carpeting, bunting, skirts, railings, flags, and electrical service for the press platforms.

Two witnesses who have represented Presidential campaign committees or a party committee argued that presidential campaigns should be permitted to bill the media for legitimate costs incurred for the benefit of, or at the request of, the media, since these costs would not have been incurred otherwise. These comments stated that all the items listed in the NPRM are reasonable, legitimate costs that should be paid by the media. One of these witnesses specifically opposed an attempt to allocate costs between the press and the campaigns. In contrast, the representatives of 29 major news organizations stated that the informal system they had worked out with presidential campaign committees had broken down in the past two Presidential election campaigns and should be replaced with explicit guidelines. While the news organizations remain willing to pay legitimate travel expenses, they were opposed to being forced to pay what they considered to be the costs the campaign committees incurred in staging campaign events, which includes the sound and lighting systems, bunting and flags. They referred the Commission to the guidelines negotiated by the White House Correspondents' Association and the White House Travel Office for examples of the types of legitimate costs of covering campaign events that the news media believed it could fairly be asked to pay as well as items that should not be billed to the press unless a particular item is ordered by a news organization and that specific organization is billed. They urged the Commission to incorporate into its regulations similar restrictions on reimbursements from the media.

In light of the increasing numbers of disputes in this area, the Commission has concluded that more regulatory guidance is needed. Accordingly, 11 CFR 9004.6 is being amended by adding new paragraph (a)(3) to specify that publicly funded Presidential campaigns may seek reimbursement from the media only for the items listed in the White House Press Corps Travel Policies and Procedures issued by the White House Travel Office. The Commission has concluded that these guidelines, which were established by an arms length negotiation process, are suitable for incumbent Presidents seeking re-election, incumbent Vice Presidents running for President, as well as non-incumbent challengers in Presidential primary and general elections. Incorporating the White House Travel Office's guidelines into the regulations will also ensure that any future changes that are negotiated by the White House Correspondents' Association and the White House Travel Office will automatically be reflected in the Commission's rules without the need for additional rulemaking.

The Commission notes that the White House Travel Office guidelines currently include, in addition to a list of billable items, a provision providing for billing for any item specifically requested by a media representative. The Commission assumes that this or a similar provision will be retained in any revisions to the White House guidelines. Therefore, the limitation on press billings to items specified in the White House guidelines would not preclude media personnel from requesting items or services not specifically enumerated in those guidelines, and campaigns could bill the requesting media personnel for the requested items.

2. Ground Services Made Available to Traveling and Non-Traveling Media Representatives

The 1998 NPRM sought input as to whether further clarifications are needed to convey that Presidential campaign committees may only charge a media representative for his or her own *pro rata* share for meals, chairs on the press platform, seats on buses and vans, and telephone lines in filing centers, and that media representatives must not be expected to pay for services

made available to other members of the press or to campaign staff, volunteers, local elected officials or others. The Notice recognized that at times campaign committees have not sought payment from members of the press who do not travel on the press plane. One witness who has represented federally financed campaigns confirmed that the committees never obtain billing information on many media people. This may be due, sometimes, to the fact that local reporters and other media representatives not traveling with the campaign do not need to provide campaign staff with a credit card number for billing flights. Representatives of the news organizations who filed comments and testified at the hearing suggested that at the time campaigns provide press credentials to media representatives, whether on the plane or on the ground, it would not be a hardship for the campaign staff to obtain billing information. However, these witnesses found it objectionable that the press was sometimes charged for the entire cost of ground services made available to everyone attending the campaign event, or were charged for services that they were not allowed to use.

The current regulations at 11 CFR 9004.6(a)(2) permit, but do not require, campaign committees to obtain reimbursement from media representatives who use ground facilities, such as filing centers, but who do not travel on the press plane. The Commission notes that in practice one straightforward way for campaigns to obtain reimbursement from local media and other members of the press who do not travel with the candidate may be to collect billing information as part of the process of issuing press credentials. However, the Commission has decided that its regulations need not require the collection of billing information because campaign committees may elect to treat media costs as qualified campaign expenses and are not obligated to seek reimbursement.

Under the current regulations at 11 CFR 9004.6(b)(2), campaigns should already be well aware that each media representative may only be charged his or her own *pro rata* share of costs. These rules explain that everyone, which includes campaign staff and media personnel from other news organizations, must be included in this calculation. Thus, Presidential campaign committees may not force the traveling press to absorb the costs of ground services used or consumed by local media, campaign staff, or others. Consequently no additional changes to the regulations are necessary in this regard.

3. Billing and Payment Guidelines

Representatives of the major news organizations presented evidence in their written comments and testimony to the effect that it sometimes took months or even years after a campaign trip for them to receive bills from Presidential campaign committees for travel costs. They also explained that in some cases, they were presented with a bill for a single lump sum, which made it very difficult, if not impossible, to determine what charges were included and whether these amounts were correct. These commenters and witnesses also urged the Commission to place restrictions on what items could be charged to a media representative's credit card. Specifically, they urged the Commission to limit the use of credit cards to advance charter payments and hotel room reservations.

After evaluating the written comments and oral testimony, the Commission has decided that it is necessary to establish guidelines covering the billing and payment of media travel and ground costs. Consequently, new paragraph (b)(3) of section 9004.6 specifies that Presidential campaign committees have sixty (60) days to provide each media representative traveling or attending a campaign event with an itemized bill for each segment of the trip. The bill should specify the amounts charged for each of the following categories: air transportation, ground transportation, housing, meals, telephone services, and other billable items specified in the White House Travel Office's Travel Policies and Procedures. Sixty days is a reasonable, commercial length of time. The White House Travel Office's Travel Policies and Procedures contemplate billing within twenty (20) business days of the return of a trip. Prompt, detailed billing is needed so that the committees may obtain payment or settle disputes expeditiously. The Commission believes that it is reasonable and consistent with commercial business practices to require media representatives to pay for these costs within sixty (60) days from the date of the bill in the absence of a dispute over the charges. It should be noted that while the individual reporters' credit cards may be billed, their news organizations provide reimbursement. Under the new rules, prompt billing and payment may ensure that these payments are made and these billing disputes are resolved by the parties before the Commission begins to audit the committee.

Section 9034.6 Expenditures for Transportation and Services Made Available to Media Personnel; Reimbursements

The amendments contained in this section follow those made to section 9004.6, as discussed above.

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 110

Campaign funds, Political committees and parties.

11 CFR Part 9004

Campaign funds.

11 CFR Part 9034

Campaign funds, Reporting and recordkeeping requirements.

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

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

1. The authority citation for Part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

2. Section 110.7 is amended by adding paragraph (d) to read as follows:

§ 110.7 Party committee expenditure limitations (2 U.S.C. 441a(d)).

* * * * *

(d) Timing. Party committees may make coordinated expenditures in connection with the general election campaign before their candidates have been nominated. All pre-nomination coordinated expenditures shall be subject to the coordinated expenditure limitations of this section, whether or not the candidate with whom they are

coordinated receives the party's nomination.

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

3. The authority citation for Part 9004 continues to read as follows:

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

4. Section 9004.6 is amended by revising paragraphs (a) and (b) to read as follows:

§ 9004.6 Expenditures for transportation and services made available to media personnel; reimbursements.

(a) *General.* (1) Expenditures by an authorized committee for transportation, ground services or facilities (including air travel, ground transportation, housing, meals, telephone service, typewriters, and computers) provided to media personnel, Secret Service personnel or national security staff will be considered qualified campaign expenses, and, except for costs relating to Secret Service personnel or national security staff, will be subject to the overall expenditure limitations of 11 CFR 9003.2(a)(1) and (b)(1).

(2) Subject to the limitations in paragraphs (b) and (c) of this section, committees may seek reimbursement from the media for the expenses described in paragraph (a)(3) of this section, and may deduct reimbursements received from media representatives from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9003.2(a)(1) and (b)(1). Expenses for which the committee receives no reimbursement will be considered qualified campaign expenses, and, with the exception of those expenses relating to Secret Service personnel and national security staff, will be subject to the overall expenditure limitation.

(3) Committees may seek reimbursement from the media only for the billable items specified in the White House Press Corps Travel Policies and Procedures issued by the White House Travel Office.

(b) *Reimbursement limits;* billing. (1) The amount of reimbursement sought from a media representative under paragraph (a)(2) of this section shall not exceed 110% of the media representative's pro rata share (or a reasonable estimate of the media representative's pro rata share) of the actual cost of the transportation and services made available. Any reimbursement received in excess of this amount shall be disposed of in accordance with paragraph (d)(1) of this section.

(2) For the purposes of this section, a media representative's pro rata share shall be calculated by dividing the total actual cost of the transportation and services provided by the total number of individuals to whom such transportation and services are made available. For purposes of this calculation, the total number of individuals shall include committee staff, media personnel, Secret Service personnel, national security staff and any other individuals to whom such transportation and services are made available, except that, when seeking reimbursement for transportation costs paid by the committee under 11 CFR 9004.7(b)(5)(i)(C), the total number of individuals shall not include national security staff.

(3) No later than sixty (60) days of the campaign trip or event, the committee shall provide each media representative attending the event with an itemized bill that specifies the amounts charged for air and ground transportation for each segment of the trip, housing, meals, telephone service, and other billable items specified in the White House Press Corps Travel Policies and Procedures issued by the White House Travel Office. Payments shall be due sixty (60) days from the date of the bill, unless the media representative disputes the charges.

* * * * *

PART 9034—ENTITLEMENTS

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

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

6. Section 9034.6 is amended by revising paragraphs (a) and (b) to read as follows:

§ 9034.6 Expenditures for transportation and services made available to media personnel; reimbursements.

(a) *General.* (1) Expenditures by an authorized committee for transportation, ground services or facilities (including air travel, ground transportation, housing, meals, telephone service, typewriters, and computers) provided to media personnel, Secret Service personnel or national security staff will be considered qualified campaign expenses, and, except for costs relating to Secret Service personnel or national security staff, will be subject to the overall expenditure limitations of 11 CFR 9035.1(a).

(2) Subject to the limitations in paragraphs (b) and (c) of this section, committees may seek reimbursement from the media for the expenses described in paragraph (a)(3) of this section, and may deduct reimbursements received from media representatives from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9035.1(a). Expenses for which the committee receives no reimbursement will be considered qualified campaign expenses, and, with the exception of those expenses relating to Secret Service personnel and national security staff, will be subject to the overall expenditure limitation.

(3) Committees may seek reimbursement from the media only for the billable items specified in the White House Press Corps Travel Policies and Procedures issued by the White House Travel Office.

(b) *Reimbursement limits;* billing.

(1) The amount of reimbursement sought from a media representative under paragraph (a)(2) of this section shall not exceed 110% of the media representative's pro rata share (or a reasonable estimate of the media representative's pro rata share) of the actual cost of the transportation and services made available. Any reimbursement received in excess of this amount shall be disposed of in accordance with paragraph (d)(1) of this section.

(2) For the purposes of this section, a media representative's pro rata share shall be calculated by dividing the total actual cost of the transportation and services provided by the total number of individuals to whom such transportation and services are made available. For purposes of this calculation, the total number of individuals shall include committee staff, media personnel, Secret Service personnel, national security staff and any other individuals to whom such transportation and services are made available, except that, when seeking reimbursement for transportation costs paid by the committee under 11 CFR 9034.7(b)(5)(i)(C), the total number of individuals shall not include national security staff.

(3) No later than sixty (60) days of the campaign trip or event, the committee shall provide each media representative attending the event with an itemized bill that specifies the amounts charged for air and ground transportation for each segment of the trip, housing, meals, telephone service, and other billable items specified in the White House Press Corps Travel Policies and Procedures issued by the White House Travel Office. Payments shall be due sixty (60) days from the date of the bill, unless the media representative disputes the charges.

* * * * *

Dated: July 30, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–20102 Filed 8–4–99; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 9036

[NOTICE 1999–15]

Matching Credit Card and Debit Card Contributions in Presidential Campaigns

AGENCY: Federal Election Commission.

ACTION: Final rules and transmittal of regulations to Congress.

SUMMARY: On June 10, 1999, the Commission approved new regulations that allow contributions made by credit or debit card, including contributions made over the Internet, to be matched under the Presidential Primary Matching Payment Account Act. ''Matchable contributions'' are those which, when received by candidates who qualify for payments under the Matching Payment Act, are matched by the Federal Government. The rules published today provide general guidance on the documentation that must be provided before credit and debit card contributions will be matched, and state that more detailed guidance will be found in the Commission's Guideline for Presentation in Good Order.

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. 9039(c).

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

SUPPLEMENTARY INFORMATION: On June 17, 1999, the Commission published revisions to its regulations at 11 CFR 9034.2 and 9034.3 to permit the matching of credit card and debit card contributions, including contributions received over the Internet, under the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* (''Matching Payment Act''). 64 FR 32394. In that document the Commission announced that further documentation requirements for these contributions would be addressed in the Commission's upcoming rules concerning the public financing of presidential primary and general election campaigns. *Id.* The Commission is publishing this separate document for this purpose in order to give the regulated community the earliest possible guidance in this area.

Under the Matching Payment Act, if a candidate for the presidential nomination of his or her party agrees to certain conditions and raises in excess of $5,000 in contributions of $250 or less from residents of each of at least 20 States, the first $250 of each eligible contribution is matched by the Federal Government. 26 U.S.C. 9033, 9034. In the past, the Commission declined to match credit card contributions, although it has permitted campaign committees to accept them. The Commission has always held contributions submitted for matching to a higher documentation standard because the matching fund program involves the disbursement of millions of dollars in taxpayer funds. However, the Commission decided earlier this year such contributions should be matched, if appropriate safeguards and procedures were in place to guard against the receipt of excessive and prohibited contributions.

On December 16, 1998, the Commission published a Notice of Proposed Rulemaking (''NPRM'') in which it sought comments on a wide range of issues involved in the public financing of presidential primary and general election campaigns. 63 F.R. 69524 (Dec. 16, 1998). Several of those who commented on the NPRM and several witnesses who testified at the Commission's March 24, 1999 public hearing on the NPRM urged the Commission to match qualified contributions made by credit or debit card over the Internet. After considering the comments, testimony and other relevant material, the Commission decided to authorize the matching of such contributions as long as safeguards were present to limit the possibility of fraudulent, illegal or excessive contributions. *See Explanation and Justification to the Federal Election Commission's Rules Addressing Matching Credit Card and Debit Card Contributions in Presidential Campaigns,* 64 F.R. 32394 (June 17, 1999). The new rules are codified at 11 CFR 9034.2(b) and (c), and 11 CFR 9034.3(c). The Commission also approved an Advisory Opinion, AO 1999–9, that authorized the matching of Internet contributions, but made its approval contingent on the expiration of the Congressional review period discussed below.

Section 9039(c) of Title 26, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of the Matching Payment Act 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 regulations at 11 CFR 9034.2 and 9034.3 on matching credit card and debit card contributions were sent to Congress on June 11, 1999. The legislative review period for those rules has not yet expired. However, if those rules are disapproved, then the new rules at 11 CFR 9036.1 and 9036.2 would not take effect, because they are a corollary to the earlier rules. The revisions to 9036.1 and 9036.2 are also subject to their own legislative review period, which began when they were transmitted to Congress on Aug. 2, 1999.

The Commission announced in the June 17, 1999 document that, unless Congress and the President enact legislation disapproving the amendments to 11 CFR 9034.2 and 9034.3, these changes will apply retroactively to contributions made on January 1, 1999 and thereafter. The same is true of these further regulations.

Explanation and Justification

Section 9036.1 Threshold Submission

This section sets forth the requirements a candidate must meet in making the threshold submission to the Commission, that is, the submission in which the candidate demonstrates that the requirements of 26 U.S.C. 9033 and 9034 have been met. The Commission is adding a new paragraph (b)(7) to this section, dealing with credit and debit card contributions, and renumbering paragraphs (b)(7) and (b)(8) as paragraphs (b)(8) and (b)(9), respectively.

The Commission has issued several Advisory Opinions dealing with the Internet, *see, e.g.,* AO's 1995–9, 1995–35, 1997–16, 1999–7, 1998–22, and 1999–9. It has also initiated a project to determine the potential impact of the Internet on various aspects of political committees' operations. It has become clear to the Commission that even cutting-edge advancements in computer technology may quickly become obsolete. Consequently, the Commission has decided to include the technical requirements for making these submissions in its Guideline for Presentation in Good Order, commonly known as ''PIGO.'' Therefore, paragraph (b)(7) states without further elaboration that, in the case of a contribution made by a credit or debit card, including one