

persuasive to support the proposed rulemaking. The NRC's policy on not using decommissioning trust funds for the early disposal of MRCs during operations is prudent and necessary generically to preserve and protect such funds. Other sources of funds can be used to dispose of MRCs during operations. Furthermore, under 10 CFR 50.12, licensees may request an exemption to permit withdrawal of decommissioning trust funds to dispose of MRC's, which will be reviewed on a case-by-case basis in extraordinary circumstances. Therefore, the Commission denies PRM-50-88 filed by EnergySolutions.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 3rd day of October, 2008.

**Bruce S. Mallett,**

*Acting Executive Director for Operations.*

[FR Doc. E8-24897 Filed 10-17-08; 8:45 am]

BILLING CODE 7590-01-P

## FEDERAL ELECTION COMMISSION

**11 CFR Parts 100, 101, 102, 104, 110, 113, 400, 9001, 9003, 9031, and 9033**

[Notice 2008-11]

### Increased Contribution and Coordinated Party Expenditure Limits for Candidates Opposing Self-financed Candidates

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Election Commission ("Commission") requests comments on the proposed deletion of its rules regarding increased contribution limits and coordinated party expenditure limits for Senate and House of Representatives candidates facing self-financed opponents. These rules were promulgated to implement sections 304 and 319 of the Bipartisan Campaign Reform Act of 2002, known as the "Millionaires' Amendment." In *Davis v. Federal Election Commission*, the Supreme Court held that sections 319(a) and (b), regarding House of Representatives elections, were unconstitutional. The Court's holding also applies to the contribution and spending limits in section 304 regarding Senate elections. The Commission, therefore, proposes to remove its current rules that implement the Millionaires' Amendment. In addition, the Commission proposes to retain certain other rules that generally are applicable throughout the Federal Election Campaign Act of 1971, as amended (the "Act" or "FECA"). The Commission has

made no final decision on the issues presented in this rulemaking. Further information is provided in the supplementary information that follows.

**DATES:** Comments must be received on or before November 21, 2008.

**ADDRESSES:** All comments must be in writing, must be addressed to Mr. Robert M. Knop, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail to ensure timely receipt and consideration. E-mail comments must be sent to [millionairepeal@fec.gov](mailto:millionairepeal@fec.gov). If e-mail comments include an attachment, the attachment must be in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219-3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its Web site after the comment period ends.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General Counsel, or Mr. Neven F. Stipanovic, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Commission seeks to revise its current regulations to reflect the Supreme Court's decision in *Davis v. Federal Election Commission*, 554 U.S. \_\_\_, 128 S. Ct. 2759 (2008) that invalidated the Millionaires' Amendment. The Commission proposes to delete its current rules at 11 CFR 100.19(g), 104.19, 110.5(b)(2), and Part 400. It proposes to retain and revise its current rules at 11 CFR 100.33, 100.153, 101.1, 102.2(a)(1)(viii), 113.1(g)(6)(ii), 9001.1, 9003.1(b)(8), 9031.1, and 9033.1(b)(10). It proposes to retain unchanged its current rules at 11 CFR 110.1(b)(3)(ii)(C), 116.11, 116.12, and 9035.2(c).

### I. Background

The Millionaires' Amendment<sup>1</sup> of the Bipartisan Campaign Reform Act of 2002, Public Law 107-155, (March 27,

<sup>1</sup> Section 304 of BCRA added a new paragraph (i) to 2 U.S.C. 441a, which addressed Senate elections. Section 319 of BCRA added a new section 441a-1 to the Act, which addressed elections for the House Representatives. The Senate provisions also added new notification and reporting requirements in 2 U.S.C. 434.

2002) ("BCRA"), increased certain contribution limits and coordinated party expenditure limits for Senate and House of Representatives candidates facing opponents who spent significant amounts of personal funds. When a self-financed opponent spent personal funds above a certain threshold amount, the Millionaires' Amendment permitted a candidate to accept individual contributions under increased contribution limits. 2 U.S.C. 441a(i) and 441a-1(a). When certain other threshold amounts were reached, the Millionaires' Amendment also allowed national and state political party committees to make unlimited coordinated party expenditures on behalf of the candidate in the general election. *Id.*

On December 19, 2002, the Commission approved interim final rules to implement the Millionaires' Amendment. *See Interim Final Rules on Increased Contribution and Coordinated Party Expenditure Limits for Candidates Opposing Self-Financed Candidates*, 68 FR 3970 (Jan. 27, 2003) ("Interim Final Rules"). The Commission sought public comments on the Interim Final Rules, as well as on specific issues discussed in the Explanation and Justification. No comments were received. These Interim Final Rules were in effect during the 2004 and 2006 election cycles, and the beginning of the 2008 election cycle.

On June 26, 2008, the Supreme Court invalidated the Millionaires' Amendment. In *Davis*, the Supreme Court reviewed a challenge by a self-financed candidate who triggered the Millionaires' Amendment in the 2004 and 2006 elections for the House of Representatives. The Supreme Court held that the House of Representatives provision of the Millionaires' Amendment was unconstitutional because it violated the plaintiff's First Amendment rights. 128 S.Ct. at 2775. The Supreme Court invalidated the entire BCRA section 319 relating to House elections, including the increased contribution limits in 319(a) and its companion disclosure requirements in 319(b). The Court reasoned that the Millionaires' Amendment imposed a substantial burden on the plaintiff's exercise of his First Amendment right to use personal funds for campaign speech, and that the burden was not justified by any governmental interest in eliminating corruption or the perception of corruption. 128 S.Ct. at 2772-73.

On July 25, 2008, the Commission issued a Public Statement that, in light of the *Davis* decision, it would no longer enforce the Millionaires' Amendment. *See* Press Release, Public Statement on the Supreme Court's Decision in *Davis v. FEC*, July 25, 2008, *available at*

<http://www.fec.gov/press/press2008/220080725millionaire.shtml>. As of June 26, 2008, the increased contribution limits and reporting requirements were no longer in effect, and political party committees were no longer permitted to make increased coordinated party expenditures on behalf of self-financed candidates. *Id.*

## II. Proposed Removal of Current 11 CFR Part 400—Increased Limits for Candidates Opposing Self-Financed Candidates

The Commission proposes to delete current 11 CFR Part 400 because the statutory foundation for Part 400 has been invalidated by the Supreme Court's decision in *Davis*. The Commission's rules at 11 CFR Part 400 implement the Millionaires' Amendment. See *Interim Final Rules* at 3975. The rules at Part 400: (1) Provide the notification and reporting requirements for Senate and House of Representatives candidates (subpart B); (2) explain when the increased contribution limits apply (subpart C); (3) explain how to calculate the increased contribution limits (subpart D); and (4) explain how candidates' authorized committees must dispose of excess contributions. In *Davis*, the Supreme Court decided that increased contribution limits and disclosure requirements for House of Representatives candidates in BCRA sections 319(a) and (b) were unconstitutional. Thus, the Commission's rules at 11 CFR Part 400 that implement BCRA sections 319(a) and (b) are no longer valid.

The Supreme Court in *Davis* struck down only BCRA sections 319(a) and (b) governing House of Representatives elections. The Commission, however, believes that the Supreme Court's analysis in *Davis* also precludes enforcement of the Commission's rules implementing BCRA sections 304(a) and (b), which provide increased contribution limits and disclosure requirements for Senate elections. In *Davis*, the Court concluded that increased contribution limits for a House of Representatives candidate facing a self-financed candidate impermissibly burdened the First Amendment right of the self-financed candidates to spend their own money for campaign speech. 128 S.Ct. at 2771. There is no basis to conclude that the constitutional implications would be different for similarly situated candidates in Senate elections, governed by BCRA sections 304(a) and (b), than in the respective House of Representatives elections, governed by BCRA sections 319(a) and (b).

The Commission's rules at Part 400 implement the Millionaires' Amendment provisions for both House and Senate elections. The Commission, therefore, proposes to delete 11 CFR Part 400 in its entirety.

## III. Proposed Amendments to Other Provisions

### A. Part 100—Definitions

#### 1. Proposed Removal of Current 11 CFR 100.19(g)—File, Filed, or Filing

The Commission proposes to delete current 11 CFR 100.19(g) because the statutory foundation for this provision has been invalidated by the Supreme Court's decision in *Davis*. Section 100.19 defines "file, filed, or filing" and specifies when a document is considered timely filed. Paragraph (g) states that a candidate's notification of expenditures from personal funds under 11 CFR 400.21 and 400.22 are considered timely filed if sent by facsimile or electronic mail to all appropriate parties within 24 hours of the time the thresholds set forth in 11 CFR 400.21 and 400.22 are exceeded, thereby triggering the reporting requirement.

As explained above, the Commission proposes to delete current 11 CFR Part 400 in its entirety because the Supreme Court invalidated the Millionaires' Amendment. The Commission proposes to delete paragraph (g) from section 100.19 because the candidate's notifications under 11 CFR 400.21 and 400.22 would no longer be required.

#### 2. Proposed Revision of 11 CFR 100.33—Definition of "Personal Funds"

The Commission proposes to revise the definition of "personal funds" in 11 CFR 100.33 by deleting the cross-reference to current section 400.2, which the Commission intends to remove through this rulemaking. The Commission proposes to retain the remainder of section 100.33 because the definition of "personal funds" in section 100.33 applies generally to other Title 2 rules that use the term "personal funds." See *Interim Final Rules*, 68 FR at 3972. The Commission also notes that the definition of "personal funds" at 11 CFR 9003.2(c)(3), which applies to Title 26 of the United States Code, would remain unchanged.

### B. Proposed Revision of 11 CFR 101.1—Candidate Designations

The Commission proposes to delete the sentence in paragraph (a) of current 11 CFR 101.1 that requires Senate and House of Representatives candidates to state, on their Statements of Candidacy on FEC Form 2 (or, if the candidate is

not required to file electronically, on his or her letter containing the same information), the amount by which the candidate intends to exceed the threshold amount as defined in 11 CFR 400.9. The reporting requirements of that sentence would no longer be necessary because, as explained above, the Commission proposes to delete 11 CFR Part 400 through this rulemaking.

### C. Proposed 11 CFR 102.2—Statement of Organization: Forms and Committee Identification Number

The Commission proposes to retain and revise current 11 CFR 102.2(a)(1)(viii), which requires principal campaign committees to provide an electronic mail address and a facsimile number on FEC Form 1. Paragraph (viii) was promulgated by the *Interim Final Rules* to facilitate the notification of expenditures from personal funds under Part 400. See *Interim Final Rules*, 68 FR at 3972. Although the notifications under Part 400 would no longer be required, the electronic mail address provided by committees facilitates the exchange of information between committees and the Commission for other purposes under FECA. Continuing to require committees' electronic mail address, therefore, would continue to benefit the committees as well as the Commission. The Commission, however, proposes to delete the requirement that committees provide their facsimile number because it does not routinely communicate with committees via facsimile machine.

Consistent with its delegated authority to require political committees to provide an "address" when filing a statement of organization under 2 U.S.C. 433(b)(1), the Commission proposes to retain the requirement that committees report their electronic mail address on FEC Form 1.

### D. Proposed Removal of Current 11 CFR 104.19—Special Reporting Requirements for Principal Campaign Committees of Candidates for Election to the United States Senate or United States House of Representatives

The Commission proposes to remove and reserve current 11 CFR 104.19 because the statutory foundation of this section was invalidated by the Supreme Court's decision in *Davis*. Current section 104.19 requires principal campaign committees of Senate and House of Representatives candidates to report information necessary to calculate their "gross receipts advantage," which is defined at 2 U.S.C. 441a(i)(E) (Senate) and 441a-1(a)(2)(B) (House of Representatives). This reporting requirement was promulgated

to ensure the candidates in the same House or Senate election have sufficient and timely information to calculate the “opposition personal funds amount” under 11 CFR Part 400.10. *See Interim Final Rules*, 68 FR at 3972. Because the Commission intends to delete Part 400 in response to the Supreme Court’s decision in *Davis*, the reporting requirements under section 104.19 would no longer be necessary.

*E. Proposed Deletion of 110.5(b)(2)—Biennial Contribution Limitations*

The Commission proposes to delete current paragraph (b)(2) of section 110.5 because the statutory foundation for this provision has been invalidated by the Supreme Court’s decision in *Davis*. Paragraph (b)(2) states the circumstances under which the individual biennial limits on contributions do not apply to contributions made pursuant to 11 CFR Part 400. As explained above, the Commission intends to remove 11 CFR Part 400 because the *Davis* decision invalidated the Millionaires’ Amendment. Accordingly, the exception to individual contribution limits under section 110.5(b)(2) is no longer valid. The Commission, therefore, proposes to delete 11 CFR 110.5(b)(2).

*F. Proposed Retention of 11 CFR 116.11 and 116.12—Repayment of Candidate Loans*

The Commission proposes to retain sections 11 CFR 116.11 and 116.12 of the regulations concerning the repayment of candidates’ personal loans. The Commission seeks comment on this proposal in light of the Supreme Court’s decision in *Davis*.

BCRA added a new provision prohibiting candidates and their authorized committees from using contributions made after the election to repay loans from the candidates to their authorized committees to the extent the contributions total over \$250,000. *See* 2 U.S.C. 441a(j). These loans are referred to as “personal loans.” The Commission’s current rules at 11 CFR 116.11 and 116.12 implement 2 U.S.C. 441a(j). Section 116.11 prohibits an authorized committee from using contributions made after an election to repay any personal loan by a candidate that exceeds \$250,000. Section 116.12 addresses the repayment of candidate’s personal loans that, in the aggregate, are equal to or less than \$250,000.

The Commission believes that the *Davis* decision did not invalidate the personal loan provision in BCRA and, thus, it proposes to retain the rules that implement that provision. The

Commission does not have authority, on its own, to declare a duly enacted law to be unconstitutional.

The Court in *Davis* did not address the validity of the personal loan provision, and the plaintiff did not challenge that provision. Although that provision is in the same statutory subsection of BCRA section 304(a) as other provisions that the Supreme Court in *Davis* held to be unconstitutional, the personal loan provision is placed in a separate subsection within 2 U.S.C. 441a. This statutory provision has a wider application than other provisions of the Millionaires’ Amendment. It applies equally to all candidates and regardless of whether the Millionaires’ Amendment provisions also apply. Most notably, while other provisions of the Millionaires’ Amendment apply only to Senate and House of Representatives candidates, the loan repayment provision applies to candidates for all Federal offices, including presidential candidates. Because this statutory provision has wider application than the Millionaires’ Amendment, the Commission added new sections 11 CFR 116.11 and 116.12 rather than include these rules in 11 CFR Part 400 with the Millionaires’ Amendment regulations. *See Interim Final Rules* at 3973.

The Commission’s proposal to retain sections 116.11 and 116.12 is consistent with the approach it took in a recent advisory opinion, which was requested after *Davis* invalidated the Millionaires’ Amendment. *See* Advisory Opinion 2008–09 (Lautenberg). Senator Lautenberg loaned money to his principal campaign committee in connection with his primary election. The Senator asked the Commission whether the personal loan provision applied to his personal loan case in light of the *Davis* decision. The Commission concluded that it did apply because the *Davis* decision did not address the constitutionality of the personal loan provision. The Commission explained that, unlike the BCRA provisions found to be unconstitutional in *Davis*, the personal loan provision applies equally to all candidates, regardless of whether they or their opponents have triggered the increased campaign contribution limits.

The Commission also concluded in Advisory Opinion 2008–09 that the personal loan provision was severable from the Millionaires’ Amendment. As the Commission explained there, BCRA section 401 provides that the invalidation of one provision of BCRA will not affect the validity of any other provisions of BCRA nor the application of such provisions to other persons and circumstances. 2 U.S.C. 454. It is a well-

settled principle of statutory construction that “[u]nless it is evident that the legislature would not have enacted those provisions which are within its power, independently of that which is not, the invalid part may be dropped if what is left is fully operative as a law.” *Buckley v. Valeo*, 424 U.S. 1, 108 (1976) quoting *Champlin Refining Co. v. Corporation Commission*, 286 U.S. 210, 234 (1932)). In *Buckley*, the Supreme Court struck down certain provisions of FECA’s section 202, but expressly upheld other provisions within the same subsection of the statute.

In Advisory Opinion 2008–09, the Commission found that it was not at all “evident” from the text, function, or legislative history of the Millionaires’ Amendment that Congress intended the personal loan provision to be inextricably tied to the increased contribution limits of BCRA 304(a). Section 304(a) was codified in two separate provisions of 2 U.S.C. 441a, one providing for the increased contribution limits and the other limiting repayment of personal loans. Functionally, the personal loan provision can operate effectively without the provisions invalidated by *Davis*. Because the loan repayment provision’s operation does not depend upon the invalidated increased contribution limits or reporting provisions, its validity is not affected by their invalidation. Moreover, legislative history shows that Congress in several instances addressed the loan repayment provision separately from the unconstitutional provisions regarding increased contribution limits. *See, e.g.*, 147 Cong. Rec. S2450–51 (daily ed. Mar. 19, 2001) (statement of Sen. Domenici); 147 Cong. Rec. S2461–62 (daily ed. Mar. 19, 2001) (statement of Sen. Domenici).

The Commission seeks comment on its proposal to retain the current rules at 11 CFR 116.11 and 116.12 restricting the repayment of personal loans.

*G. Proposed Retention of 11 CFR 110.1(b)(3)(ii)(C)—Net Debts Outstanding*

The Commission proposes to retain current 11 CFR 110.1(b)(3), which restricts the ability of candidates and their authorized committees to accept contributions after the election. Together with sections 116.11 and 116.12, current 11 CFR 110.1(b)(3) implements 2 U.S.C. 441a(j).

Candidates and their authorized committees cannot accept contributions after the election is over unless the candidate still has net debts outstanding from that election. 11 CFR 110.1(b)(1)(i). This rule was promulgated long before

BCRA added the loan repayment restriction in 441a(j). After the election is over, candidates and their authorized committees may accept contributions up to the amount of their “net debts outstanding,” as defined in current 11 CFR 110.1(b)(3)(ii). To conform with the fundraising restrictions in 11 CFR 116.11, the Commission added paragraph (C) to section 110.1(b)(3)(ii), which excludes the amount of personal loans that exceed \$250,000 from the definition of “net debt outstanding.” See *Interim Final Rules*, 68 FR at 3973. The Commission proposes to retain the current rule at 11 CFR 110.1(b)(3)(ii)(C) for the same reasons it intends to retain the current rules 11 CFR 116.11 and 116.12, as explained above.

#### H. Proposed Retention of 11 CFR 9035.2(c)—Expenditure Limitations

The Commission proposes to retain the cross-reference in current 11 CFR 9035.2(c) to the definition of “personal funds” in 11 CFR 9003.2. Section 9035.2 provides limitations on expenditures from personal or family funds when a candidate has accepted matching funds in a presidential primary election. In promulgating 11 CFR 9035.2(c), the Commission explained that it cross-referenced that section to the definition of “personal funds” in 11 CFR 9003.2 because it was more appropriate in the context of Title 26 regulations than the Commission’s definition of “personal funds” in 11 CFR 100.33, which applies only to FECA. See *Interim Final Rules*, 68 FR at 3986–87. For the same reason, the Commission continues to believe that the cross-reference in 11 CFR 9035.2(c) to 11 CFR 9003.2 is appropriate and, therefore, it should be retained.

#### IV. Technical and Conforming Amendments to Other Regulations

##### A. 11 CFR 100.153—Routine Living Expenses; 11 CFR 113.1(g)(6)(ii)—Definition of Personal Use

The Commission proposes to amend 11 CFR 100.153 and 113.1(g)(6)(ii) by revising the cross-reference to the definition of “personal funds” in 11 CFR 110.10(b) to current 11 CFR 100.33. The Commission deleted 11 CFR 110.10(b) in the *Interim Final Rules*. The proposed change would reflect the Commission’s prior removal of the “personal funds” definition from section 110.10(b) to section 100.33.

##### B. 11 CFR 110.5(b)(2)—Biennial Contribution Limitations

The Commission proposes to amend 11 CFR 110.5 paragraphs (b), (d), and (e), by revising the spelling of the word

“bi-annual” to “biennial.” This proposed change would make the spelling consistent with the title of section 110.5, which uses the term biennial.

*C. 11 CFR 9001.1—Scope; 11 CFR 9003.1—Candidate and Committee Agreement; 11 CFR 9031.1—Scope; 11 CFR 9033.1—Candidate and Committee Agreement*

The Commission proposes to make technical amendments to these sections that would update the reference to its other regulations to reflect the proposed elimination of Part 400.

#### V. Request for Comments

The Commission invites comments from the public concerning any of the proposals outlined above. The Commission also invites comments from the public regarding any additional changes that should be made to 11 CFR 100.33, 101.1, 102.2(a)(1)(viii), 110.1(b)(3)(ii)(C), 116.11, 116.12, 9035.2(c), or any other section of the regulations to conform with the holdings and points of law articulated in the Supreme Court’s decision in *Davis*.

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

The Commission certifies that the attached proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by this proposed rulemaking, which applies only to Federal candidates and their campaign committees, and political committees of political parties. Such committees are not “small entities” under 5 U.S.C. 601. Candidate and party committees are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals; rather, they rely on contributions from a variety of persons to fund the committee’s activities. The Democratic and Republican parties also have a major controlling influence within the political arena and are dominant in their field. However, to the extent that any party committees representing major or minor political parties or any other political committees might be considered “small entities,” the number that would be affected by this rule is not substantial.

The proposed rule also would not add new substantive provisions to the current regulations, but rather it would remove or retain existing regulations. Therefore, the attached proposed rule

would not have a significant impact on a substantial number of small entities.

#### List of Subjects

##### 11 CFR Part 100

Elections.

##### 11 CFR Part 101

Political candidates, Reporting and recordkeeping requirements.

##### 11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

##### 11 CFR Part 104

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

##### 11 CFR Part 110

Campaign funds, Political committees and parties.

##### 11 CFR Part 113

Campaign funds.

##### 11 CFR Part 116

Administrative practice and procedure, Business and industry, Credit, Elections, Political candidates, Political committees and parties.

##### 11 CFR Part 400

Campaign funds, Elections, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

##### 11 CFR Part 9001

Campaign funds.

##### 11 CFR Part 9003

Campaign funds, Reporting and recordkeeping requirements.

##### 11 CFR Part 9031

Campaign funds.

##### 11 CFR Part 9033

Campaign funds, Reporting and recordkeeping requirements.

##### 11 CFR Part 9035

Campaign funds, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Commission proposes to amend Subchapters A, C, E, and F of Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

#### PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for part 100 continues to read as follows:

**Authority:** 2 U.S.C. 431, 434, 438(a)(8), and 439a(c).

§ 100.19 [Amended]

2. In section 100.19, is amended by removing the reference to “(g)” and adding in its place “(f)” in paragraph (b) introductory text and (b)(2) and by removing paragraph (g).

3. Section 100.33 is revised to read as follows:

§ 100.33 Personal funds.

Personal funds of a candidate means the sum of all of the following:

(a) Assets. Amounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

- (1) Legal and rightful title; or
(2) An equitable interest;

(b) Income. Income received during the current election cycle, of the candidate, including:

- (1) A salary and other earned income that the candidate earns from bona fide employment;
(2) Income from the candidate’s stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments;
(3) Bequests to the candidate;
(4) Income from trusts established before the beginning of the election cycle;

(5) Income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(6) Gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(7) Proceeds from lotteries and similar legal games of chance; and

(c) Jointly owned assets. Amounts derived from a portion of assets that are owned jointly by the candidate and the candidate’s spouse as follows:

(1) The portion of assets that is equal to the candidate’s share of the asset under the instrument of conveyance or ownership; provided, however,

(2) If no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property.

§ 100.53 [Amended]

5. Section 100.153 is amended by removing the reference to “11 CFR 110.10(b)” and adding in its place “11 CFR 100.33”.

PART 101—CANDIDATE STATUS AND DESIGNATIONS (2 U.S.C. 432(e))

6. The authority citation for part 101 continues to read as follows:

Authority: 2 U.S.C. 432(e), 434(a)(11), 438(a)(f).

7. Section 101.1(a) is revised to read as follows:

§ 101.1 Candidate designations (2 U.S.C. 432(e)(1)).

(a) Principal Campaign Committee. Within 15 days after becoming a candidate under 11 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate in writing, a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy on FEC Form 2, or, if the candidate is not required to file electronically under 11 CFR 104.18, by filing a letter containing the same information (that is, the individual’s name and address, party affiliation, and office sought, the District and State in which Federal office is sought, and the name and address of his or her principal campaign committee at the place of filing specified at 11 CFR part 105). Each principal campaign committee shall register, designate a depository, and report in accordance with 11 CFR parts 102, 103, and 104.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

8. The authority citation for part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

9. In § 102.2, paragraph (a)(1)(viii) is revised to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).

- (a) \* \* \*
(1) \* \* \*

(viii) If the committee is a principal campaign committee of a candidate for the Senate or the House of Representatives, the principal campaign committee’s electronic mail address.

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (2 U.S.C. 434)

10. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8) and (b), 439a, 441a, and 36 U.S.C. 510.

§ 104.19 [Removed and Reserved]

11. Section 104.19 is removed and reserved.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

12. The authority citation for part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h, and 36 U.S.C. 510.

13. In § 110.5, paragraphs (b)(1), (d), and (e) are revised, and paragraph (b)(2) is removed and reserved to read as follows:

§ 110.5 Aggregate biennial contribution limitation for individuals (2 U.S.C. 441a(a)(3)).

\* \* \* \* \*

(b) Biennial limitations. (1) In the two-year period beginning on January 1 of an odd-numbered year and ending on December 31 of the next even-numbered year, no individual shall make contributions aggregating more than \$95,000, including no more than:

(i) \$37,500 in the case of contributions to candidates and the authorized committees of candidates; and

(ii) \$57,500 in the case of any other contributions, of which not more than \$37,500 may be attributable to contributions to political committees that are not political committees of any national political parties.

\* \* \* \* \*

(d) Independent expenditures. The biennial limitation on contributions in this section applies to contributions made to persons, including political committees, making independent expenditures under 11 CFR part 109.

(e) Contributions to delegates and delegate committees. The biennial limitation on contributions in this section applies to contributions to delegate and delegate committees under 11 CFR 110.14.

PART 113—USE OF CAMPAIGN ACCOUNTS FOR NON-CAMPAIGN PURPOSES

14. The authority citation for part 113 continues to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

§ 113.1 [Amended]

15. Section 113.1(g)(6)(ii) is amended by removing the reference to “11 CFR 110.10(b)” and adding in its place “11 CFR 100.33”.

PART 400—[REMOVED]

16. Under the authority of 2 U.S.C. 437d(a)(8), part 400 is removed.

**PART 9001—SCOPE**

17. The authority citation for part 9001 continues to read as follows:

**Authority:** 26 U.S.C. 9009(b).

**§ 9001.1 [Amended]**

18. Section 9001.1 is amended by removing the number “400” and adding in its place the number “300” in both instances in which it appears.

**PART 9003—ELIGIBILITY FOR PAYMENTS**

19. The authority citation for part 9003 continues to read as follows:

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

**§ 9003.1 [Amended]**

20. In section 9003.1, paragraph (b)(8) is amended by removing the number “400” and adding in its place the number “300”.

**PART 9031—SCOPE**

21. The authority citation for part 9031 continues to read as follows:

**Authority:** 26 U.S.C. 9031 and 9039(b).

**§ 9031.1 [Amended]**

22. Section 9031.1 is amended by removing the number “400” and adding in its place the number “300” in both instances in which it appears.

**PART 9033—ELIGIBILITY FOR PAYMENTS**

23. The authority citation for part 9033 continues to read as follows:

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

**§ 9033.1 [Amended]**

24. In section 9033.1, paragraph (b)(10) is amended by removing the number “400” and adding in its place the number “300”.

Dated: October 8, 2008.

**Donald F. McGahn, II,**

*Chairman, Federal Election Commission.*

[FR Doc. E8–24505 Filed 10–17–08; 8:45 am]

**BILLING CODE 6715–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Part 40**

[Docket No. RM06–22–000]

**Mandatory Reliability Standards for Critical Infrastructure Protection; Notice of Extension of Time**

Issued October 10, 2008.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order on Proposed Clarification: Extension of comment date.

**SUMMARY:** On September 18, 2008, the Commission issued an order proposing to clarify that the facilities within a nuclear generation plant in the United States that are not regulated by the U.S. Nuclear Regulatory Commission are subject to compliance with the eight mandatory “CIP” Reliability Standards approved in Commission Order No. 706. The date for filing comments on the Commission’s proposal is being extended at the request of the Edison Electric Institute and the Nuclear Energy Institute.

**DATES:** Comments are due November 3, 2008.

**ADDRESSES:** You may submit comments, identified by docket number by any of the following methods:

- *Agency Web Site:* <http://ferc.gov>.

Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand-deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

Jonathan First (Legal Information), Office of General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502–8529; Regis Binder (Technical Information), Office of Electric Reliability, 888 First Street, NE., Washington, DC 20426, (202) 502–6460.

**SUPPLEMENTARY INFORMATION:** On October 10, 2008, the Edison Electric Institute (EEI) and the Nuclear Energy Institute (NEI) filed a joint motion for an extension of time to file comments in response to the Commission’s Order on Proposed Clarification issued September 18, 2008, in the above-referenced proceeding. (*Mandatory Reliability Standards for Critical Infrastructure Protection*, 124 FERC ¶ 61,247 (2008)

(Proposed Clarification)). EEI and NEI state that because a majority of their members will be required to implement CIP Reliability Standards and NRC cybersecurity requirements in accordance with the clarification to be issued in this docket and because of the complex of the issues addressed in the Proposed Clarification, additional time is needed to submit well-developed comments.

Upon consideration, notice is hereby given that an extension of time for filing comments is granted to and including November 3, 2008.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8–24630 Filed 10–17–08; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF LABOR****Wage and Hour Division****29 CFR Parts 3 and 5**

RIN 1215–AB67

**Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction**

**AGENCY:** Wage and Hour Division, Employment Standards Administration, Department of Labor.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** In this proposed rule, the Department of Labor (Department or DOL) proposes to revise regulations issued pursuant to the Davis-Bacon and Related Acts and the Copeland Anti-Kickback Act to better protect the personal privacy of laborers and mechanics employed on covered construction contracts.

**DATES:** Comments must be submitted on or before November 19, 2008.

**ADDRESSES:** You may submit comments, identified by RIN 1215–AB67, by either one of the following methods:

- *Electronic comments, through the federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

*Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Regulatory Information Number (RIN) identified above for this rulemaking. Comments