

publicly funded candidates as non-qualified campaign expenses.

B. Media Travel Expenses

The Commission's rules at 11 CFR 9004.6 and 9034.6 establish procedures for authorized committees of Presidential primary and general election candidates to obtain reimbursement for transportation and other services that are provided to the news media and the Secret Service over the course of a campaign. These rules contain a non-exhaustive list of such services. Sections 9004.6(a)(3) and 9034.6(a)(3) state that Presidential campaign committees may seek reimbursement from the news media only for the billable items specified in the White House Press Corps Travel Policies and Procedures issued by the (White House Travel Office, in conjunction with the White House Correspondents' Association ("White House Travel Manual"). Expenses for which a publicly-funded committee receives no reimbursement are considered qualified campaign expenses, and, with the exception of those expenses relating to Secret Service personnel and national security staff, are subject to the overall expenditure limitation under 11 CFR 9004.6(a)(2) and 9034.6(a)(2).

In the 1996 campaign, some Presidential campaign committees incurred significant expenses to reconfigure campaign aircraft. The expenses included both interior work, such as equipment installation, and exterior work such as campaign logos. However, these expenses were not included in the *White House Travel Manual* for 1996, which has not changed to date. The NPRM in this rulemaking sought comment on whether the Commission should revise the rules to permit Presidential campaign committees to obtain reimbursement for aircraft reconfiguration expenses from the news media.

One joint comment submitted by 23 news organizations supported continued use of the *White House Travel Manual*. It also argued that most previous aircraft reconfigurations have been minor and for the convenience for the campaign, so that any cost sharing should be negotiated by the campaign and the press organizations. Another commenter stated that the *White House Travel Manual* does not address aircraft reconfiguration because the needs of the press have been taken into consideration when government aircraft are originally designed or reconfigured, but candidates who do not travel on government aircraft should be able to make the necessary changes to an

aircraft and seek press reimbursement. This commenter stated that the use of the *White House Travel Manual* to determine reimbursable expenses is generally a wise policy, but advocated a mechanism for candidates to seek exceptions to the general rule if the candidate can demonstrate that an expense was incurred at the request of and to accommodate the press.

The Commission has determined that the aircraft reconfiguration expenses are not suitable for a rule of general applicability particularly because any reconfiguration will likely involve an airplane to be used by many members of the press on many different flights over the life of the campaign. Accordingly, it would be quite difficult to determine the appropriate amount of any monetary payment at a point when neither the press corps nor the campaign staff can predict the number of flights or their costs. The advisory opinion process, however, might serve as the appropriate means for the Commission to consider any particular arrangement for the sharing of these one-time expenses. Consequently, 11 CFR 9004.6 and 9034.6 are not being revised.

C. In-Kind Contributions and Repayments

The NPRM proposed amending 11 CFR 9038.2(b)(2)(ii)(A), which concerns repayments based on expenditures in excess of a Presidential primary candidate's expenditure limitations. Section 9038.2(b) would have provided that in-kind contributions, coordinated expenditures, coordinated communications, coordinated party expenditures and party coordinated communications that count against a candidate's expenditure limitations must be included in the total amount of expenditures for purposes of calculating repayment determinations for expenditures in excess of the limitations.

One commenter urged the Commission to state whether it will seek repayment for primary expenditures in excess of the expenditure limitations.

On a related issue, the NPRM also proposed revisions to 11 CFR 9038.2(b)(2)(iii) that would have included both total deposits and in-kind contributions received or accepted by the candidate in the calculation of the repayment ratio for non-qualified campaign expenses. One commenter stated that this change is consistent with the statute and regulations and that the change would reduce repayment amounts.

The Commission has decided to make no changes to the regulation at 11 CFR

9038.2(b)(2), which currently requires publicly funded Presidential primary campaigns to make repayments on the basis of exceeding the Congressionally-mandated spending limits. The current rule is not being changed at this time because there is no consensus in favor of changing the regulation. *See also Notice of Disposition for the Rules Governing Public Funding of Presidential Primary Candidates—Repayments*, 65 FR 15273 (Mar. 22, 2000).

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

The Commission certifies that the attached final rules will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few small entities will be affected by these rules, which apply only to Presidential candidates, their campaign committees, national party committees, host committees, and municipal funds. Most of these are not small entities. Most of the Presidential campaigns and convention committees receive full or partial funding from the Federal Government, and are subsequently audited by the Commission. The Commission amends these rules every four years to reflect its experience in the previous Presidential campaign. These rules propose no sweeping changes, and are largely intended to simplify this process. Many expand committee options; several are technical; and others codify past Commission practice. Those few proposals that might increase the cost of compliance by small entities would not do so in such an amount as to cause a significant economic impact.

List of Subjects

11 CFR Part 104

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

11 CFR Part 107

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

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 9001

Campaign funds.

11 CFR Part 9003

Campaign funds, Reporting and recordkeeping requirements.