

This amendment becomes effective June 7, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on April 26, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-7062 Filed 5-9-72;8:46 am]

[Airworthiness Docket No. 71-WE-26-AD,
Amdt. 39-1443]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Model D.H. 104 Dove
Series 7A, 7AXC, 8A, 8AXC Air-
planes Modified Per STC SA1747WE
("Carstedt Jet Liner C-600")

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring either reduced life limits or additional modification of DeHavilland Model D.H. 104 Dove Series 7A, 7AXC, 8A, 8AXC airplanes modified per STC SA1747WE ("Carstedt Jet Liner C-600") was published in 37 F.R. 811.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Hawker Siddeley Aviation, Ltd., has requested removal of references to "Hawker Siddeley," "DeHavilland" and "Dove" in this and future AD's concerning these modified aircraft. While the applicability of the proposed rule to aircraft incorporating a particular modification (STC SA1747WE) was set forth in the notice of proposed rule making, the adopted rule includes the commonly used popular name designation, i.e., the Carstedt Jet Liner C-600. The references contained in the notice are retained in the adopted rule as the appropriate description for the certification of the aircraft, as modified by a supplemental type certificate.

Hawker Siddeley Aviation, Ltd., has objected to the statement in the notice that "Hawker Siddeley and the agency have reexamined data pertaining to the use and the safe-life of the fitting and the lower spar boom." It requests that FAA note that Hawker Siddeley did not reexamine these data as stated in the preamble of the NPRM and that any work done by Hawker Siddeley on the fatigue life of standard Dove parts had no bearing on the part designed by another company. This AD applies to aircraft modified in accordance with supplemental type certificates issued by the agency; the AD does not apply to unmodified D.H. 104 Dove aircraft. Data used to support the issuance of STC SA1747WE included data for safe-lives of parts in the unmodified D.H. 104 Dove aircraft. The agency reexamined the data submitted for STC SA1747WE in light of data for safe-lives for parts in the unmodified D.H. 104 Dove aircraft.

Hawker Siddeley Aviation, Ltd., has commented that it cannot take any responsibility for adequacy of the static strength of the wing center section lower spar boom in the modified aircraft or for the safe-life of 1,800 hours quoted in the Directive. The agency is not, by adoption of this AD, imputing responsibility to Hawker Siddeley for modified aircraft by mere reference to applicable parts on unmodified aircraft. An airplane modification may be sufficiently extensive to require reevaluation of unmodified parts for new basic static loads and different fatigue spectrums as applicable to the modified configuration.

As all instructions required to accomplish the lower spar boom replacement are contained within a reference to DeHavilland Aircraft Company drawing No. 4-Z-13775, the reference to Hawker Siddeley Technical New Sheet Series CT (104) No. 119 has been deleted.

No other written comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY. Applies to DeHavilland Model D.H. 104 Series 7A, 7AXC, 8A, 8AXC airplanes modified per STC SA1747WE certificated in all categories. (Also known as "Carstedt Jet Liner C-600".)

Compliance required prior to further flight after the effective date of this AD as indicated, unless already accomplished.

To prevent fatigue failure of a wing main spar lower attach fitting or of a wing center section lower spar boom, accomplish the following:

(a) Replace each wing lower spar attach fitting P/N CPD 2004 installed under STC SA1747WE at or before 1,800 hours' time in service, and at intervals thereafter not to exceed 1,800 hours' time in service, with a new attach fitting (Strato Engineering Co., Inc., Part No. CPD 2004).

(b) Replace the wing center section lower spar boom at or before 1,800 hours' time in service, and at intervals thereafter not to exceed 1,800 hours' time in service, in accordance with DeHavilland Aircraft Co. drawing number 4-Z-13775, or another replacement modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) If aircraft are further modified in accordance with STC SA2438WE, or an alternate acceptable modification approved by the Chief, Aircraft Engineering Division, Western Region, replacement of the parts as specified in (a) and (b) above, may be discontinued.

This amendment becomes effective June 7, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C., 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on April 26, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-7063 Filed 5-9-72;8:46 am]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna T310, 320, 401, 402, 411, 414,
and 421 Series Airplanes

Since issuance of AD 70-11-2, Cessna has developed a design change in the exhaust system on production aircraft which is available for inservice airplanes per Cessna Service Letter ME72-4, dated March 24, 1972. This design change includes a new sealed slip joint type exhaust system that cannot be inspected utilizing the pressure test procedures specified in AD 70-11-2. In addition, there have been failures of the engine exhaust system components on Cessna Models 411, 414, and 421 series airplanes. These failures are in the form of cracks, breaks, bulging, and joint separation, which, if not corrected, will allow hot exhaust gases to discharge into the engine compartment resulting in possible hazardous heat damage to adjacent powerplant components.

Since production aircraft contain exhaust system components that cannot be pressure tested and exhaust system failures are occurring on certain additional airplanes of the same type design, AD 70-11-2 is being superseded by a new AD which will add Cessna Models 411, 414, and 421 series airplanes and revise the inspection procedures for airplanes that have the latest sealed slip-joint type exhaust system.

Since a situation exists which requires expeditious adoption of the amendment to extend compliance on some airplanes and revise inspection procedures, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. (1) Paragraphs A, B, C, and D are applicable to Models T310P, T310Q, 320D, 320E, 320F, 401, 401A, 401B, 402, 402A, 402B, 411, 411A, 414, 421, 421A, and 421B airplanes.

(2) Paragraph E is applicable to those airplanes equipped with new sealed slip-joint type exhaust systems, namely, Models T310Q (Serial No. T310Q-0292 and up), 401B (Serial No. 401B0122 and up), 402B (Serial No. 402B0123 and up), 414 (Serial No. 414-0176 and up), and 421B (Serial No. 421B0148 and up) airplanes or those airplanes modified in accordance with Cessna Service Letter No. ME72-4, dated March 24, 1972.

Compliance: To detect incipient failure of the engine exhaust system installed in the above airplanes, within 25 hours' time in service after the effective date of this AD, unless already accomplished within the last 25 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, except that airplanes with less than 25 hours' total time in service need not be inspected or tested before 50 hours' time in service (or 50 hours' time in service after the last complete AD 70-11-2 inspection), accomplish the following:

(A) Remove the engine cowling and heat shields that shroud the exhaust manifold and joints.

(B) Visually inspect the complete exhaust manifold, joints and "V" band clamps for cracks or breaks.

(C) Test the complete exhaust manifold and joints for leakage in accordance with the following procedures as outlined in Cessna Service Letter ME70-20, Supplement No. 1, dated April 9, 1971, or any other equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region:

1. Plug either the waste gate overboard tube or the turbine overboard tube with a rubber plug.

2. Attach the pressure side of an industrial vacuum cleaner to the open overboard tube using a rubber plug to effect a seal as required.

3. With vacuum cleaner operating, check complete exhaust manifold and joints manually by feel or by using a soap solution and watching for bubbles. The exhaust system must be free of air leaks, with the exception of waste-gate bearings, the ball joints at the bellows assembly, the turbocharger and bearing housing joint, and "V" band joint clamps, which will show some bubbling.

(D) If cracks, breaks or any leakage along the manifold pipes and any excess leakage at the joints are found during the inspections and tests required by either paragraphs B or C of this AD, before further flight, replace any defective part with an airworthy part.

(E) On airplanes equipped with new sealed slip-joint type exhaust system:

1. Remove the engine cowling and heat shields that shroud the "V" band clamps.

2. Visually inspect all "V" band clamps for cracks or breaks.

3. Prior to further flight replace any defective "V" band clamp with an airworthy part.

This AD supersedes AD 70-11-2.

NOTE: Caution should be exercised to prevent overtightening of the "V" band clamp at applicable locations. Condition of the clamp during each inspection required by this AD should be determined and torquing of the clamp bolt should be accomplished in accordance with Cessna Service Letter ME70-20, Supplement No. 1, dated April 9, 1971.

This amendment becomes effective May 12, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on April 28, 1972.

BROWNING ADAMS,
Acting Director, Central Region.

[FR Doc.72-7064 Filed 5-9-72;8:46 am]

[Airspace Docket No. 72-EA-33]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to realign the segment of Jet Route No. 152 between Rosewood, Ohio, and Harrisburg, Pa.

Jet Route 152 between the Rosewood VORTAC and Harrisburg VORTAC is presently aligned via a minor dogleg over the West View, Pa., intersection. The distance between Rosewood and Harrisburg

via this alignment exceeds the normal spacing criteria specified for navigational aids within the Jet Route system. Because of the excessive distance between Rosewood and Harrisburg, the minimum en route altitude (MEA) for the middle portion of this route has been established at flight level 300. The establishment of the MEA at this excessive altitude prohibits the ultimate use of altitudes along this jet route segment. Additionally, through radar monitoring aircraft utilizing J-152 between Rosewood and Harrisburg have been observed north of the route centerline in the vicinity of the West View intersection. This reflects instability of the navigational guidance on this route segment due to the excessive spacing between the Rosewood and Harrisburg facilities.

To properly provide for better navigational guidance and utilization of flight altitudes on this segment of J-152, action is taken herein to realign J-152 segment from Rosewood direct to Johnstown, Pa., VORTAC, direct to Harrisburg. This alignment by including the Johnstown VORTAC in the route description would permit the MEA to be established at 18,000 feet MSL and would reduce the en route flight distance by approximately 3 nautical miles.

Since a situation exists where safety requires immediate adoption of this amendment, it is found that notice and public procedure thereon are impracticable. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 22, 1972, as hereinafter set forth.

In § 75.100 (37 F.R. 2382) Jet Route No. 152 text is amended by deleting all between "Rosewood;" and "to INT Harrisburg 096" and substituting "Johnstown, Pa.; Harrisburg, Pa.;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 5, 1972.

ROBERT G. CARNAHAN,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72-7132 Filed 5-9-72;8:50 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-53]

PART 374a—REGULATIONS PURSUANT TO SECTION 401 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 WITH RESPECT TO EXTENSION OF CREDIT BY AIR CARRIERS TO POLITICAL CANDIDATES

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of May 1972.

In a notice of proposed rule making, dated March 8, 1972 (SPDR-29, 37 F.R. 5257), the Board proposed a new Part 374a, pursuant to section 401 of the Federal Election Campaign Act of 1971, with respect to the extension of credit to political candidates by persons regulated by the Civil Aeronautics Board.

The notice proposed the following alternative rules, with a view to adopting such of them as the Board would determine to be appropriate in light of the comments received: (1) Prohibit the furnishing of air transportation unless the political candidates, or persons acting on their behalf, make full payment in advance or provide full security in advance; (2) prohibit the furnishing of air transportation to such political candidates unless they maintain an account for air transportation on a current billing basis, i.e., billings to be made semi-monthly with full payment remitted within 14 days after billing; (3) permit carriers to refuse to extend unsecured credit, so that carriers may refuse to provide transportation for political campaign purposes unless there is full payment in advance or full security in advance; (4) permit carriers to extend credit on such reasonable terms and conditions as the carrier in its judgment deems appropriate, so long as the same terms and conditions apply uniformly to all candidates for political office; and (5) require carriers to file special reports with respect to credit extended to political candidates.¹ The Board further stated that although it may decide ultimately to adopt only the above reporting requirement, it tentatively concluded that, should one or more of the other described proposals be adopted, the Board would add thereto such reporting requirement.²

Pursuant to the subject notice, comments were received from Senator Hugh Scott, U.S. Senator from Pennsylvania; Airline Finance and Accounting Conference of the Air Transport Association of America (ATA); Northeast Airlines, Inc. (Northeast); and the Democratic National Committee (DNC). Although the notice provided for reply comments, none was filed.

Upon full consideration of the relevant matter contained in the comments, we have decided, for the reasons hereinafter stated, to adopt a combination of the aforescribed alternatives (2) and (5) of the proposed rule, with modifications. Except as modified herein, the tentative findings set forth in the explanatory statement to the proposed rule are incorporated by reference and made final.

Section 401 of the Federal Election Campaign Act of 1971 (Public Law 92-225) directs that the Board, the FCC and

¹It was indicated in the notice that each of these proposals was to be considered separately, and in the final rule any one or more of them might be adopted.

²In the notice (footnote 4, p. 4 mimeo.), the Board tentatively concluded that there is no need to extend the regulation to carriers serving by exemption, and requested comments on this issue. No such comments having been received, the Board's tentative conclusion will now be made final.

the ICC shall each promulgate, on or before May 7, 1972 (90 days after enactment), "its own regulations with respect to the extension of credit, without security, by any person regulated by (the respective agency) to any candidate for Federal office (as such term is defined in section 301 of the Act), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office." The legislative history of this provision indicates that its purpose was to prevent recurrence of past incidents in which large amounts of unsecured credit were extended to political candidates by regulated industries—particularly air carriers—and substantial portions of the indebtedness so incurred remain uncollected. Thus, Congress had before it the fact that as of April 30, 1971, there was still owed to the Big Four domestic trunkline carriers over \$1.5 million of debts stemming from the 1968 Presidential campaign.³

The comments in response to the notice of rule making encompass a broad spectrum of views. At one extreme, Senator Scott and the ATA carriers support a prohibition on the extension of any unsecured credit, as embodied in the first alternative proposal in the notice. At the other extreme, the DNC would have the Board rely solely upon a reporting requirement, leaving to each carrier the discretion to determine the extent to which credit should be extended consistent with its normal credit practices. In the Board's judgment, neither extreme represents a desirable solution to the problem. On the one hand, a flat prohibition on the extension of unsecured credit would deprive political candidates of the ordinary credit facilities which the air carriers generally make available to all segments of the public, and would create undue obstacles to the conduct of political campaigns. We are not persuaded that this harsh remedy is necessary to accomplish the remedial purposes of section 401.⁴

On the other hand, the Board cannot accede to the DNC contention that a reporting requirement, without more, would adequately deal with the problem which section 401 was enacted to remedy. While we believe it both necessary and desirable that the Board require public disclosure of debts of air carriers which are incurred by or on behalf of political candidates, we also feel that substantive regulatory action is needed to insulate the carriers from pressures which, in the past, have resulted in the pyramiding of debts by or on behalf of political candidates.

³ Congressional Record (daily edition, July 23, 1971), S-11931-2.

⁴ We may note in passing that this proposal would go even beyond that contained in a proposed statutory provision which would have prohibited the extension of unsecured credit to political candidates unless the candidates are billed on a monthly basis and such bills were fully paid within 10 days, a proposal which was withdrawn by the proponent on the ground that it was not likely to carry. See Congressional Record (daily ed. Dec. 14, 1971) S-12999.

The Board believes that the second of the five alternatives proposed in the notice represents a reasonable accommodation of the conflicting interests. This alternative would prohibit the furnishing of air transportation to political candidates unless they maintain their credit account for transportation on a current billing basis. If the account remains unpaid after the reasonable time prescribed in the rule, the carriers are prohibited from extending any further unsecured credit to or on behalf of the candidates. Protection is thus provided to the carrier by requiring the candidate to maintain a current account, and by preventing political candidates from accumulating large unpaid bills, we avoid those practices which have led to past abuses. Accordingly, we propose to adopt a current billing practice alternative with modifications described below.⁵

Although the proposed rule was applicable only to "air transportation," as defined in the Federal Aviation Act, the attached rule would apply to all air carriage, whether common or private, intrastate transportation services, and leases of aircraft, with or without crew. The Federal Election Campaign Act does not restrict the air carrier provisions to "air transportation," i.e., to interstate, overseas, or foreign common carriage by air. Since noncommon carriage, intrastate services, and aircraft under dry lease may be furnished to candidates and give rise to substantial indebtedness, it is the Board's view that these additional categories should be included consistent with the remedial purposes of the Election Campaign Act.

Also, the description in the proposed rule of the "current billing" alternative (alternative No. (2)), which we are adopting, did not make sufficiently clear the consequences which were intended to follow a default in payment of a carrier's submitted bill for unsecured credit. The proposal obviously contemplated that a multiplicity of accounts would be maintained by a carrier with respect to a particular candidate, since the candidate as well as numerous persons acting on his behalf (such as various committees organized to support him) could have separate accounts with the same carrier. Yet, if a default in any single account would result in nothing more than cutting off further extensions of unsecured credit to that particular account, the salutary purpose of the rule could be avoided by the simple expedient of proliferating the number of separate accounts on behalf of

a single candidate. On the other hand, if default in the account of one person acting on behalf of a candidate were to result in cutting off further extensions of unsecured credit to all accounts maintained with the affected carrier by that candidate, as well as by all other persons acting on his behalf (even though all such other accounts are not in default), then it seems only reasonable that the candidate should at least have the opportunity (a) to screen persons who seek to act on the candidate's behalf, and (b) to be given specific notice of the default of any person acting on his behalf, so that the default may be cured. We are therefore providing for such opportunity in the final rule. However, in order not to disrupt arrangements already made with air carriers by persons who, although acting on behalf of a candidate, have not received his written authorization to do so—as the final rule requires—we are providing that this aspect of the rule should apply only to transportation to be performed after June 1, 1972. For transportation performed before that date, a default in any separate account will oblige the carrier to cut off further extension of unsecured credit only to that particular account.

The regulation also contains clarifying provisions with respect to debts which candidates and persons acting on their behalf may incur in connection with purposes other than the campaign of the candidate. Consistent with the statutory limitation in section 401, the prohibition against extension of unsecured credit relates only to credit for transportation in connection with the candidate's campaign. However, we believe that it would not be in keeping with the goals of the statute to permit the extension of credit for campaign purposes to a person who is in fact in default to a carrier for any indebtedness incurred after the effective date of the part, whatever the source of such indebtedness. Nor do we believe that it would be practicable to expect the carrier to analyze the total indebtedness of such person, so as to separate the portions attributable to Federal election campaign expenses from any other items. This is a problem which may become particularly difficult in the case of political committees which incur debts for transportation in connection with their general political activities which are not limited to Federal election campaigns.

The ATA carriers propose that the billing be made on a monthly rather than a semimonthly basis, consistent with the general billing practices. In the Board's judgment, a monthly billing would be inadequate to prevent the building up of large credit balances in the last months prior to the election when campaign activity is at its peak. Accordingly, we will require that billing be made at least twice a month in the months of September and October prior to the November general election.

Finally, we are including in § 374a.4 a provision to prohibit the extension of credit by the air carrier to a candidate or person acting on his behalf if the air carrier knows that such candi-

⁵ The third of our proposed alternatives would permit—but not require—carriers to refuse to extend unsecured credit to political candidates; and the fourth alternative would simply permit the carriers to extend credit on such reasonable terms and conditions as the carrier in its judgment deems appropriate, so long as the same terms and conditions apply uniformly to all candidates for political office. We shall not adopt them, since neither of these alternatives was favored by the comments, and neither of them would effectively curb the abuses which gave rise to this proceeding. It should be noted that our rule does not require a carrier to extend unsecured credit to any person who is not a satisfactory credit risk.

date or person is in default to another carrier. This provision is believed necessary in order to prevent the evasion of the spirit of the regulation by the device of shifting from one carrier to another after extensions of credit have been denied because of nonpayment.

We now turn to the reporting requirement. As previously indicated, the fifth alternative proposal—and the one which the Board tentatively concluded should be prescribed in any event—was to require carriers to file special semimonthly reports with respect to credit extended to political candidates. All of the comments favor a reporting requirement, and ATA suggests several modifications thereto which are dealt with below.

A reporting requirement is consistent with the Federal Election Campaign Act which requires public disclosure of financial support of campaign expenditures. In our judgment, public disclosure of unpaid air transportation bills should encourage both prompt payment by political candidates as well as effective collection action by the carriers. However, upon consideration of suggestions contained in the comments, we shall make the following modifications: (1) The report will be required monthly instead of semimonthly; (2) an item, age of the unpaid balance, will be added; and (3) the report will be due on the 20th day rather than the 10th day following the end of the reporting period.

Consistent with our determination to prohibit extensions of credit for campaign purposes where the account is in default with respect to transportation furnished for any purpose, the report shall cover debts for all transportation furnished to or on behalf of the candidate without regard to the relationship of the transportation to the campaign. The notice proposed that a report be filed with respect to each candidate with an indebtedness balance of over \$5,000 on the last day of the month. For purposes of the report, all debts incurred on behalf of the candidate are to be aggregated. In addition, a separate report shall be required with respect to any balance of over \$5,000 indebtedness incurred after the effective date of this part by any person to whom the carrier has extended credit as a person acting on behalf of a candidate.

The report with respect to a candidate shall be filed on CAB Form 183, attached hereto as Appendix A; but we are not prescribing a form for the reports to be filed with respect to persons acting on behalf of a candidate.

ATA would have the Board require the reports on a continuing basis rather than for the period commencing 6 months prior to nomination for election, or 6 months prior to election, until the date of election, as in the proposed rule. We see no need for the reports to be filed on a continuing basis by all carriers during those periods of time when no political campaigns for Federal office are being conducted. However, we shall modify the proposed reporting period so as to require the filing of continuous monthly reports even subsequent to the date of election so long as accrued debts remain unpaid, i.e.,

until a carrier can file its first negative report. Thereafter, the carrier will remain free of the reporting requirement hereunder until commencement of the next prescribed reporting period, namely, 6 months prior to date of nomination for election, or date of election, as the case may be.

In view of the provision of section 401 of the Federal Election Campaign Act requiring the Board to promulgate these regulations within 90 days after February 7, 1972, and the amount of elapsed time which has been necessitated by the public procedures held herein, good cause is found for making the rule effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby issues Part 374a of the Special Regulations (14 CFR Part 374a), effective May 6, 1972, as follows:

Sec.

- 374a.1 Purpose.
- 374a.2 Applicability.
- 374a.3 Definitions.
- 374a.4 Conditions governing extension of unsecured credit.
- 374a.5 Exemption authority.
- 374a.6 Reporting requirements.
- 374a.7 Record retention requirements.
- 374a.8 Prospective application of part.

AUTHORITY: The provisions of this Part 374a are issued under secs. 204(a), 401, 403, 404(b), 407, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 [as amended by 76 Stat. 143, 82 Stat. 867], 758 [as amended by 74 Stat. 445], 760, 766 [as amended by 83 Stat. 103], 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386; and sec. 401 of the Federal Election Campaign Act of 1971, Public Law 92-225; 86 Stat. 19, 2 U.S.C. 451.

§ 374a.1 Purpose.

Section 401 of the Federal Election Campaign Act of 1971 (Public Law 92-225, 86 Stat. 19, 2 U.S.C. 451, enacted February 7, 1972, and hereafter referred to as the "Election Campaign Act") directs the Civil Aeronautics Board to promulgate, within 90 days after enactment, regulations with respect to the extension of unsecured credit by any person regulated by the Board to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. The purpose of this part is to issue rules pursuant to said section 401 of the Election Cam-

"The final rule adds a new section entitled "Record retention requirements," which specifies a 2-year retention period for the pertinent documents. Also, we are modifying the definition of "political committee" in order to include the corporate form of organization in defining a "political committee," a change suggested by ATA. Finally, we are adding a sentence to the section entitled "Prospective application of part" (§ 374a.8, *infra*) as ATA requested.

We are not modifying the definition of "adequate security" so as to specify a third person's guaranty as an acceptable alternative form of security as requested by ATA. A personal guaranty does not constitute the kind of "adequate security" which a carrier should be allowed to accept (or be pressured into accepting) in lieu of complying with this rule.

aign Act in accordance with the Civil Aeronautics Board's responsibility thereunder.

§ 374a.2 Applicability.

This regulation shall be applicable to all air carriers as defined herein.

§ 374a.3 Definitions.

"Adequate security" means (a) a bond, issued by a surety meeting the standards prescribed for sureties in Part 378 of the Board's Special Regulations (Part 378 of this chapter), in an amount not less than one hundred and fifty percent (150%) of the credit limit established by the air carrier for the candidate, or the person acting on behalf of a candidate, as the case may be, by the terms of which bond the surety undertakes to pay to the air carrier any and all amounts (not exceeding the face amount of the bond) for which the assured candidate or the assured person acting on behalf of a candidate, as the case may be, is or may become legally liable to the air carrier for transportation, as defined in this part; or (b) collateral with a market value equal to one hundred and fifty percent (150%) of the established credit limit for such account, which collateral must be deposited in escrow and must consist of Federal, State, or municipal bonds or other negotiable securities which are publicly traded on a securities exchange.

"Air carrier" means any air carrier holding a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958, as amended.

"Candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected. For purposes of this part, an individual shall be deemed to seek nomination for election, or election, if he has (a) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office; or (b) received contributions or made expenditures, or given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

"Election" shall have reference to (a) a general, special, primary, or runoff election; (b) a convention or caucus of a political party held to nominate a candidate; (c) a primary election held for the selection of delegates to a national nominating convention of a political party; or (d) a primary election held for the expression of a preference for the nomination of persons for election to Federal office.

"Established credit limit" means the dollar limit of credit established by the carrier extending credit.

"Federal office" means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"Person acting on behalf of a candidate" means (a) a political committee acting on behalf of, or a person employed

by such candidate or by such political committee to act on behalf of, such candidate in connection with such candidate's campaign for nomination for election, or election, to Federal office; (b) a person acting under a contract with, or as an agent of, such candidate or political committee to engage in activities in connection with such candidate's campaign for nomination for election, or election, to Federal office; or (c) a person for whom such candidate or political committee pays, directly or indirectly, for services purchased by such person. The term includes persons acting on behalf of more than one candidate.

"Payment in advance" means payment by cash, check, money order, or by credit card (if the issuer of such card is not an air carrier or a subsidiary, parent, or affiliate thereof) prior to performance of such transportation by an air carrier.

"Political committee" means any committee, association, corporation, or organization which accepts contributions, or makes expenditures, for the purpose of supporting a candidate or candidates for nomination for election, or election, to Federal office.

"Transportation" means (a) the carriage of persons or property (including services connected therewith) for compensation or hire to or from any place in the United States, or (b) the lease or rental of aircraft, with or without crew.

§ 374a.4 Conditions governing extension of unsecured credit.

(a) Unless adequate security is posted, or full payment in advance is made, no air carrier shall provide transportation to any person it knows, or has reasons to know, is a candidate or a person acting on behalf of such candidate, in connection with the campaign of such candidate, except in accordance with, and subject to, the following conditions:

(1) At least once a month the air carrier shall submit to each such candidate or person, a statement covering all unsecured credit extended to such candidate or person, as the case may be (whether in connection with the campaign of such candidate or otherwise): *Provided*, That, during the months of September and October prior to each election, statements shall be submitted on no less than a semimonthly basis.

(2) Such statements shall be mailed no later than the second business day following the last day of the billing period covered by the statement.

(3) The amount of indebtedness shown on each such statement shall be payable in full no later than 14 days after the last day of the billing period, after which time the indebtedness shall be overdue.

(4) (i) Unsecured credit shall not be extended by an air carrier to a candidate, or to any person acting on his behalf in connection with the campaign of such candidate, so long as any overdue indebtedness of such candidate to such air carrier shall remain unpaid, in whole or in part, or so long as such air carrier shall know that any overdue indebtedness of such candidate to any other air carrier remains unpaid, in whole or in part.

(ii) Unsecured credit shall not be extended by an air carrier to a person acting on behalf of a candidate, for transportation in connection with the campaign of such candidate, so long as any overdue indebtedness of such person to such carrier shall remain unpaid, in whole or in part, or so long as such air carrier shall know that any overdue indebtedness of such person to any other air carrier remains unpaid, in whole or in part.

(5) (i) With respect to transportation in connection with the campaign of any candidate to be performed after June 1, 1972, unsecured credit shall not be extended by an air carrier to any person acting on behalf of such candidate unless the carrier is authorized in writing by such candidate to extend such credit. The foregoing sentence shall not be construed as requiring the candidate to assume liability to the carrier for credit so extended.

(ii) Within 7 days after indebtedness becomes overdue for any unsecured credit extended by an air carrier to a person acting on behalf of a candidate in accordance with subdivision (i) of this subparagraph, the carrier shall notify such candidate in writing of the amount of such overdue indebtedness, and, unless paid in full within 14 days after the date of such notice, such overdue indebtedness shall be deemed to be the overdue indebtedness of such candidate, for the purposes of subparagraph (4) (i) of this paragraph.

(b) It shall be presumed that a candidate or person acting on behalf of a candidate intends to use transportation in connection with the campaign of such candidate for nomination for election, or election, to Federal office.

§ 374a.5 Exemption authority.

Air carriers are exempt from the following provisions of title IV of the Federal Aviation Act of 1958, as amended: (a) Section 403, (b) section 404(b), and any and all other provisions of title IV of the Federal Aviation Act of 1958, as amended, to the extent necessary to enable air carriers to comply with the provisions of this part.

§ 374a.6 Reporting requirements.

(a) Air carriers shall make monthly reports to the Board with respect to the extension of credit for transportation furnished to candidates, or persons acting on behalf of candidates, during the period from 6 months before nomination, if any, or from 6 months before election, until the date of election. After such described period, monthly reports shall also be filed until the air carrier has filed a negative report; thereafter, no further monthly report need be filed until the commencement of the next such described period.

(b) (1) A separate report shall be filed for each candidate with an aggregate indebtedness balance of over \$5,000 on the last day of the month to which the report pertains. The report shall cover all debts incurred by the candidate, whether or not incurred in connection with his campaign, and all debts incurred

by persons acting on his behalf in connection with such campaign. The indebtedness accounts reported shall be those which the air carrier knows, or has reason to know, have been incurred by or on behalf of a candidate; and it shall be presumed that the transportation for which the indebtedness has been incurred is intended to be used in connection with the campaign of such candidate for nomination for election, or election, to Federal office.

(2) The reports required by this paragraph (b) shall be filed with the Board's Bureau of Accounts and Statistics not later than the 20th day following the end of the calendar month to which the report pertains. They shall include the following data: (i) Name of account; (ii) the credit limit established for such account; (iii) the balance, if any, of the amount payable for transportation not paid for in advance; (iv) any unpaid balance of the charges for such transportation as of the last day of the month covered by the report, and the length of time that such balance has remained unpaid; and (v) a description of the type and value of any bond, collateral, or other security securing such unpaid balance.

(3) The report required by this paragraph (b) shall be in the form attached hereto as Appendix A.⁷

(c) A separate report shall be filed for each person acting on behalf of any candidate, if the aggregate indebtedness balance of such person to the reporting air carrier (including all debts incurred by such person, whether or not incurred in connection with the campaign of a candidate, as defined in this part) is over \$5,000 on the last day of the month to which the report pertains. The report shall be filed with the Board's Bureau of Accounts and Statistics not later than the 20th day following the end of the calendar month to which the report pertains and shall include (1) the credit limitation established for such person; (2) the balance, if any, of the amount payable for transportation not paid for in advance; (3) any unpaid balance of the charges for such transportation as of the last day of the month covered by the report, and the length of time that such balance has remained unpaid; and (4) a description of the type and value of any bond, collateral, or other security securing such unpaid balance.

§ 374a.7 Record retention requirements.

(a) Every air carrier subject to the part shall retain for 2 years after a Federal election true copies of the following documents at its principal or general office in the United States:

(1) All documents which evidence or reflect the furnishing of transportation to a candidate for political office or a person acting on his behalf;

(2) All statements, invoices, bills, and receipts with respect to the furnishing of such transportation referred to in subparagraph (1) of this paragraph.

(b) Every air carrier shall make the documents listed in this section avail-

⁷ Filed as part of the original document.

able in the United States upon request by an authorized representative of the Board and shall permit such representative to make such notes and copies thereof as he deems appropriate.

§ 374a.8 Prospective application of part.

The provisions of this part shall apply only to the extension of credit by an air carrier to a candidate, or to a person acting on his behalf, which is made subsequent to the effective date of this part, and shall not be applicable to debts incurred prior to such date but which are unpaid as of the effective date of this part. The provisions of this part will be applicable, however, to all credit transactions which occur subsequent to the effective date of the part even though the credit account in which the transaction takes place was opened prior to the effective date of the part.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

[FR Doc. 72-7065 Filed 5-9-72; 8:46 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 34-9587]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Inclusion of Clearing Fund Deposits as Assets in Computation of Net Capital

The Securities and Exchange Commission announced today that it has amended Rule 15c3-1 (17 CFR 240.15c3-1) (the net capital rule) under the Securities Exchange Act of 1934 (Exchange Act) by amending clause (B) of paragraph (c) (2) thereof and by adding new paragraphs (c) (9) and (c) (10). Rule 15c3-1 generally provides for certain safeguards with respect to the financial responsibility of brokers and dealers, including the requirement that a broker-dealer's aggregate indebtedness, as defined in the rule, may not exceed a specified per centum of his net capital, as defined in the rule, and that he must have and maintain a specific minimum net capital.

Clause B of paragraph (c) (2) provides, among other things, that assets which cannot be readily converted into cash must be deducted from net worth in the computation of net capital. This provision has been cast with the view that assets included in net capital should be sufficiently liquid to enable a broker-dealer to meet his current liabilities and

obligations. Questions have arisen, however, concerning the application of that principle to clearing fund deposits by members of a continuous net settlement (CNS) system for the clearance and settlement of securities transactions where such system is affiliated with a national securities exchange or a registered national securities association (clearing agency).

Under a CNS system, a clearing agency assumes the role of principal party in the clearance and settlement of both the buying and selling sides of a transaction in securities between members of the clearing agency (clearing members). As a result of the risks thereby assumed by such CNS clearing agencies, clearing funds have been established and maintained through deposits by clearing members for use in payment of the liabilities of clearing members to the clearing agencies or the general liabilities of the clearing agencies which arise as a result of their clearing and settling activities. Such funds are essential to the continued operation and financial security of CNS clearing agencies, and, as noted in the Commission's Study of Unsound and Unsound Practices of Brokers and Dealers (the Study), the facilitation of clearance procedures through responsible clearing organizations is a matter to be fostered.¹ All but one of the clearing agencies using the CNS system have established such clearing funds.²

We have been informed by the National Clearing Corp. (NCC), a corporation formed by the National Association of Securities Dealers (NASD) to operate its nationwide CNS clearing agency, that a number of broker-dealers have expressed their hesitation to become members of NCC because of the possibility that Rule 15c3-1(c) (2) (17 CFR 240.15c3-1(c) (2)) might be interpreted to require all deposits, of any nature whatever, to NCC's clearing fund be deducted from members' net worth in the computation of their net capital, and that such deduction could have a substantial impact on the amount of such broker-dealers' net capital. Such hesitancy could substantially impair the growth and effectiveness of NCC and similar clearing agencies whose establishment has been found in the Study to be essential to the efficient conduct by the securities industry of clearance and settlement procedures.

Because of the importance of fostering systems for the clearance and settlement of securities transactions, because CNS systems appear to offer substantial reductions in the movement of share certificates, and because deposits to clearing funds are actually available for use

to meet members' current obligations to clearing agencies, the Commission hereby amends clause (B) of Rule 15c3-1(c) (2) and adopts new paragraphs (c) (9) and (c) (10) to Rule 15c3-1 to provide that clearing fund deposits by clearing members of clearing agencies using a CNS system for the clearance and settlement of securities transactions need not be deducted from such members' net worth in the computation of net capital under paragraph (c) (2).

Although the above-stated exception is now being adopted with respect to the calculation of net capital, persons affected by such rule change should be aware that both the Commission and the NASD have the entire net capital rule under review. Such review will include the amendments adopted herein.

Commission action. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 15(c) (3) and 23(a) thereof, hereby amends § 240.15c3-1 of Chapter II of Title 17 of the Code of Federal Regulations (1) by adding the following to the end of the last sentence of subparagraph (ii) of paragraph (c) (2), and (2) by adding new paragraphs (c) (9) and (10) thereto. As amended, subdivision (ii) of paragraph (c) (2) and paragraphs (c) (9) and (10) would read as follows:

§ 240.15c3-1 Net capital requirements for brokers and dealers.

* * * * *

(c) Definitions:

* * * * *

(2) * * *

(ii) Deducting fixed assets and assets which cannot be readily converted into cash (less any indebtedness secured thereby) including, among other things, real estate; furniture and fixtures; exchange memberships; prepaid rent, insurance and expenses; good will; organizational expenses; all unsecured advances and loans; customers' unsecured notes and accounts; and deficits in customers' accounts, except in bona fide cash accounts within the meaning of section 4(c) of Regulation T of the Federal Reserve System; and the funds on deposit in a "segregated trust account" in accordance with § 270.27d-1 of this chapter under the Investment Company Act of 1940, but only to the extent that the amounts on deposit in such segregated trust account exceed the amount of liability reserves established and maintained for refunds of charges required by section 27 (d) and (f) of the Investment Company Act of 1940: *Provided, however*, That the cash and market value of securities, as reduced by the appropriate percentages provided in subdivision (iii) of this subparagraph which are deposited with a clearing fund maintained by a clearing corporation or similar department or association of a national securities exchange or registered national securities association using a continuous net settlement system for the clearance and settlement of securities transactions

¹ H.R. Doc. No. 92-231, 92d Cong., first sess. 3, 5-6, 31, 168, 174-5 (1971).

² Clearing agencies using the CNS system have been established by the Midwest Stock Exchange, the Pacific Coast Stock Exchange and the NASD; the latter organization operates its clearing agency function through the National Clearing Corp. The rules of the Pacific Coast Stock Exchange Clearing Corp. do not provide for a clearing fund.