

Rules and Regulations

Federal Register

Vol. 50, No. 141

Tuesday, July 23, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

Absence and Leave

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending its annual leave regulations to clarify the period in which restored annual leave may be used in certain situations. The change applies only to situations that exist after termination of an extended exigency of the public business when the amount of restored and accrued annual leave cannot be used within the 2 years specified in the current regulations.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Matteson, (202) 632-4634.

SUPPLEMENTARY INFORMATION: Section 630.306(b) of Title 5, Code of Federal Regulations, provides that annual leave forfeited because of an exigency of the public business and restored under 5 U.S.C. 6304(d) must be scheduled and used not later than the end of the second full leave year following termination of the exigency. While this provision generally carries out congressional intent that there be ample time in which to use restored leave, it does not deal adequately with situations in which a prolonged exigency results in the accumulation of large amounts of restored leave that cannot be used in a 2-year period without disrupting normal operations.

To deal with such situations, we published an interim regulation to permit agencies to increase the time for affected employees to use restored annual leave after the termination of an extended exigency (50 FR 3314, January 24, 1985).

During the 60-day public comment period on the interim regulation, we received comments from one individual, one union, and one agency. The individual did not comment on the specifics of the interim regulation; rather, he commented on the procedure for declaring exigencies of the public business. These comments will be considered when we next revise regulations on that subject.

The union commented that the interim regulation was too narrow and suggested that the two-for-one formula be extended to *all* exigencies that last more than 1 year. When we published the interim regulation, we intended that it would apply only to those exigencies lasting for long periods of time under extreme circumstances. This intent is supported by the language of an congressional intent behind 5 U.S.C. 6304(d). Therefore, we have not adopted this suggestion.

The agency's comments made it apparent that the interim regulation is subject to more than one interpretation. Therefore, we have revised the interim regulation to clarify that the time period for use of restored leave following an extended exigency is 2 years for each calendar year, or part thereof, during which the exigency existed, *regardless of the number of years during the exigency in which the employee forfeited leave*. Because this interpretation is more generous than granting the additional period for each year during the exigency when leave was actually forfeited, we believe it is appropriate to further restrict the situations in which it may be applied. Therefore, we have revised the definition of "extended exigency" to specify that the exigency must last more than 3 calendar years.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will affect only Government employees.

List of Subjects in 5 CFR Part 630

Government employees and Employee benefit plans.

Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, the interim regulation published in Part 630 of Title 5, Code of Federal Regulations, on January 24, 1985 (50 FR 3314), is adopted as final, with the following revisions:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 continues to read as follows:

Authority: 5 U.S.C. 6311, unless otherwise noted.

2. Section 630.309 is revised to read as follows:

§ 630.309 Time limit for use of restored annual leave—extended exigency of the public business.

(a) Annual leave restored under 5 U.S.C. 6304(d)(1)(B) because of an extended exigency, as defined in paragraph (b) of this section, must be scheduled and used within a time period that equals twice the number of full calendar years, or parts thereof, that the exigency existed. This time period begins at the beginning of the leave year following the leave year in which the exigency is declared to be ended.

(b) An "extended exigency" means an exigency of such significance as to—

- (1) Threaten the national security, safety, or welfare;
- (2) Last more than 3 calendar years;
- (3) Affect a segment of an agency or occupational class; and
- (4) Preclude subsequent use of both restored and accrued annual leave within the time limit specified in § 630.306.

[FR Doc. 85-17391 Filed 7-22-85; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Analysis of Potential Pressurized Thermal Shock Events

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for light water nuclear

power plants to: (1) Establish a screening criterion related to the fracture resistance of pressurized water reactor (PWR) vessels during pressurized thermal shock (PTS) events; (2) require analyses and schedule for implementation of flux reduction programs that are reasonably practicable to avoid exceeding the screening criterion; and (3) require detailed safety evaluations to be performed before plant operation beyond the screening criterion will be considered. These amendments are intended to produce an improvement in the safety of PWR vessels by identifying those corrective actions that may be required to prevent or mitigate potential PTS events.

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Roy Woods, Division of Safety Technology, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-4714.

SUPPLEMENTARY INFORMATION:

Background

Transients and accidents can be postulated to occur in pressurized water reactors (PWRs) that result in severe overcooling (thermal shock) of the reactor vessel, concurrent with high pressure. In these pressurized thermal shock (PTS) events, rapid cooling of the reactor vessel internal surface causes a temperature distribution across the reactor vessel wall. This temperature distribution produces a thermal stress on the reactor vessel with a maximum tensile stress at the inside surface of the vessel. The magnitude of the thermal stress varies with the rate of change of temperature, and with time during the transient, and its effect is compounded by coincident pressure stresses.

Severe reactor system overcooling events with pressurization of the reactor vessel (PTS events) are postulated to result from a variety of causes. These include system transients, some of which are initiated by instrumentation and control system malfunctions (including stuck open valves in either the primary or secondary system), and postulated accidents such as small break loss-of-coolant accidents, main steam line breaks, and feedwater line breaks.

As long as the fracture resistance of the reactor vessel material is relatively high, these events are not expected to cause vessel failure. However, the fracture resistance of the reactor vessel material decreases with the integrated exposure to fast neutrons during the life of a nuclear power plant. The rate of

decrease is dependent on the chemical composition of the vessel wall and weld materials. If the fracture resistance of the vessel has been reduced sufficiently by neutron irradiation, severe PTS events could cause small flaws that might exist near the inner surface to propagate into the vessel wall. The assumed initial flaw might be enlarged into a crack through the vessel wall of sufficient extent to threaten vessel integrity and, therefore, core cooling capability.

The toughness state of reactor vessel materials can be characterized by a "reference temperature for nil ductility transition" (RT_{NDT}). At normal operating temperatures, vessel materials are quite tough and resistant to crack propagation. As the temperature decreases, the metal gradually loses toughness over a temperature range of about 100 °F. RT_{NDT} is a measure of the temperature range at which this toughness transition occurs. Its value depends on the specific material in the vessel wall and the integrated neutron irradiation received by the vessel. These effects are determined by destructive tests of material specimens. Correlations, based on tests of irradiated specimens, have been developed to calculate the shift in RT_{NDT} as a function of neutron fluence for various material compositions. The value of RT_{NDT} at a given time in a vessel's life is used in fracture mechanics calculations to determine whether assumed pre-existing flaws would propagate when the vessel is subjected to overcooling events.

The PTS issue is a concern only for PWRs. Boiling water reactors (BWRs) operate with a large portion of water inventory inside the pressure vessel at saturated conditions. Any sudden cooling will condense steam and result in a pressure decrease. Simultaneous conditions of high pressure and low temperature are considered to be improbable. Most BWRs also receive lower integrated fast neutron flux at the vessel inner wall, resulting in smaller RT_{NDT} shifts. BWRs are designed with a thinner-walled vessel, resulting in lower thermal stress intensities for postulated cracks.

On the basis of studies of severe overcooling events that have occurred, generic calculations of postulated PTS events that could occur, and vessel integrity calculations, the NRC staff has concluded that a value of RT_{NDT}^1 can be

selected so that the risk from PTS events for reactor vessels with smaller RT_{NDT} values is acceptable. (The risk for vessels with higher values of RT_{NDT} might also be shown to be acceptable, but the demonstration would require detailed plant-specific evaluations and possibly modifications to existing equipment, systems, and procedures.) The staff recommended that a value for RT_{NDT} be established as a screening criterion that would determine the need for, and timing of, further plant-specific evaluations.

The staff's approach to selection of the RT_{NDT} screening criterion is described in detail in SECY-82-465.² In summary, the approach was to use a deterministic fracture mechanics algorithm to calculate the value of RT_{NDT} for which assumed pre-existing flaws in the reactor vessel would be predicted to initiate (grow deeper into the vessel wall) assuming occurrence of one of the severe overcooling events that have been experienced in U.S. PWRs. These "critical" values of RT_{NDT} were related to the expected frequency of the experienced severe overcooling events based on a limited data base, consisting of eight events in 350 reactor-years.

In addition, the staff considered a wide spectrum of postulated overcooling events that could occur. These events were grouped into categories, estimates were made of their expected frequency, and stylized characterizations of the temperature and pressure time-histories were developed for each event category. The estimates presented in detail in SECY-82-465 are based on a generic study of Westinghouse-designed PWR systems, and are considered also to be generally representative of PWR systems designed by Combustion Engineering. Because there are some significant differences between those designs and PWRs designed by Babcock & Wilcox that affect the characteristics and estimated frequencies of PTS events, information was also developed for the Babcock & Wilcox designs. This information is described in detail in Enclosure C to SECY-83-288 (July 15, 1983)³. It was concluded that the PTS risk for B&W plants is not significantly different from that of other PWRs. A probabilistic treatment of the fracture mechanics calculations was developed to gain insight into the sensitivity of the

RT_{NDT} is the peak value at the inside surface of the vessel.

² Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW, Washington, DC 20555.

³ Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW, Washington, DC 20555.

¹ RT_{NDT} decreases with depth from the inside surface of an irradiated vessel's wall. This decrease is accounted for in vessel integrity analyses. As used in this document and in the screening criteria.

fracture mechanics calculations to uncertainties in the various input parameters. By combining the estimated frequencies of postulated events with the probabilistic fracture mechanics results, some estimates of the probability of vessel failure resulting from PTS events were developed. These estimates were used by the staff to better understand the residual risks inherent in the use of the screening criterion approach for further evaluations and resolution of the PTS issue.

On the basis of these studies, the NRC staff concluded the PWR reactor pressure vessels with conservatively calculated values of RT_{NDT} less than 270 °F for plate material and axial welds, and less than 300 °F for circumferential welds, present an acceptably low risk of vessel failure from PTS events.

Proposed Rule

On February 7, 1984, the Commission published a proposed rule in the *Federal Register* (49 FR 4498) that would: (1) Establish an RT_{NDT} screening criterion; (2) require licensees to submit present and projected values of RT_{NDT} ; (3) require early analysis and implementation of such fast neutron flux reduction programs as are reasonably practicable to avoid reaching the screening criterion; and (4) require plant-specific PTS safety analyses before a plant is within three calendar years of reaching the screening criterion, including analyses of alternatives to minimize the PTS problem. After consideration of the public comments received, the Commission has modified the proposed rule as discussed in the following section.

Comments on Proposed Rule

The Commission received twenty-two letters commenting on the proposed rule. Copies of those letters are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street, Washington, DC. Fourteen letters were from utilities (or from attorneys representing utilities), three from PWR Nuclear Steam Supply System manufacturers, one from an architect/engineering firm, and one from a group representing the nuclear industry. The remaining three letters were from members of the public, two of the three being from the same individual. There were a total of 181 individual comments, which are discussed by subject below.

Commission Approval To Exceed Screening Criterion

Comment: Eleven commenters agreed with the intended use of an RT_{NDT} screening criterion to determine if and

when further safety analyses would be required, but expressed concern that by requiring Commission approval of these analyses before operation beyond the criterion, the proposed rule in fact established the RT_{NDT} values as operating limits. They recommended that the rule should be amended to allow continued operation unless the Commission specifically disapproves the required safety analyses.

Response: The Commission affirms that the purpose of the PTS screening criterion is to determine whether and when further plant-specific safety analyses are required. Its acceptability for that purpose is based on the Commission's judgment that the generic PTS studies already performed by the industry and the NRC staff provide reasonable assurance that operation of PWR pressure vessels with RT_{NDT} values below the screening criterion does not result in undue risk to the public health and safety because of the potential for PTS events. However, the existing generic studies do not in themselves provide this assurance for operation of individual pressure vessels with higher RT_{NDT} values, i.e., with lower fracture resistance. The Commission has concluded that detailed plant-specific analyses are required to provide this assurance. For those cases (expected to be relatively few) where licensees determine that the screening criterion will be exceeded before the end of the desired service life of the vessel, and who nevertheless wish to continue operation, the licensees clearly have a responsibility to provide the necessary basis for assuring the protection of the public health and safety prior to operation beyond the screening criterion. The Commission's responsibility is to review the licensee's submittals and reach a decision on whether continued operation is acceptable. The Commission recognizes that a timely decision on its part is essential to avoid placing an unfair and unacceptable economic penalty on the licensee, but has concluded that the requirement for prior Commission approval in the proposed rule is appropriate and consistent with its statutory responsibilities.

Comment: Eight commenters also recommended that if the required safety analysis are not accepted by the Commission, then the proposed rule requirement that any further request must be based on "modifications to equipment, systems and operation of the facility in addition to those previously proposed . . ." should be changed so that re-analyses based upon better methods or new information would also be acceptable.

Response: The Commission agrees that further analyses based upon better methods or new information should be an allowable alternative if the original required safety analyses were not approved by the Commission. The final rule (§ 50.61(b)(6)) has been changed to reflect this alternative.

Reference Temperature Definition and Calculational Method

Comment: Nine of the commenters noted that since the proposed rule prescribes a specific conservative method for calculation of RT_{NDT} for use as a screening criterion, there is a potential inconsistency with the term RT_{NDT} as used elsewhere (e.g., in the ASME Code and in Appendix G to 10 CFR Part 50). The commenters recommended that RT_{NDT} be defined the same as in these other documents, or that the results of the prescribed calculation (for purposes of the PTS rule) be given a different designation.

Response: The final rule has been changed to define the reference temperature used for comparison with the screening criterion, and calculated as prescribed by § 50.61(b) of the rule, as "reference temperature for pressurized thermal shock" (RT_{PTS}).

Comment: The commenters also recommended that the values for copper and nickel content and fluence in Equations 1 and 2 of § 50.61(b) be described as "best estimate" values and that the "Margin" term to be added to Equations 1 and 2 be defined as covering uncertainties in those quantities as well as the uncertainties in initial RT_{NDT} value and in the calculational procedure for RT_{PTS} .

Response: This change has been made in the final rule.

Comment: One of the commenters requested that the definition of "Reactor Vessel Beltline" in the proposed rule be made the same as that given in Appendix G to 10 CFR Part 50.

Response: The Commission notes that the definition is the same as that given in the latest revision of Appendix G that was published in the *Federal Register* May 27, 1983 (48 FR 24008).

Use of Other Reference Temperature Correlations and Probabilistic Fracture Mechanics

Comment: Nine commenters responded that the rule should clearly state that alternative means of calculating RT_{NDT} (other than those specified in the rule) are acceptable for use in the analyses required by the rule to show acceptability of operation above the screening criterion values. One commenter requested that use of

surveillance data be allowed in evaluating the reference temperature.

Seven commenters requested that it should also be made clear within the rule that the use of probabilistic fracture mechanics (PFM) techniques are acceptable in establishing PTS-related risk when performing these analyses. Five commenters also suggested that it should be acceptable to use other RT_{NDT} (now called RT_{PTS}) correlations to show that a plant is below the RT_{PTS} screening criterion and hence that no analyses are required.

Response: The Commission clearly intends that licensees be free to provide any information relevant in performing the rule-required analyses to justify continued operation of the plant. This includes other RT_{NDT} correlations, surveillance data, and PFM techniques. The wording of the rule in paragraph 50.61(b)(4) has been changed to reflect this intent.

However, the final rule does not permit use of other RT_{PTS} correlations or surveillance data in determining whether or not a reactor vessel exceeds the screening criterion. The screening criterion was selected taking many uncertainties into account, including the perceived conservatism of the prescribed method for calculating RT_{PTS} .

Reporting of Changes in Reference Temperature Projections

Comment: Three commenters responded that the requirement to report new projected values of Reference Temperature when significant changes occur is unnecessary. They believe that the reporting requirements of Appendix G to 10 CFR Part 50 are adequate. One commenter suggested requiring re-reporting only if the changes would indicate that the screening RT_{PTS} would be exceeded before the expiration of the operating license.

Response: The Commission must be informed early of any trends in RT_{PTS} changes, to allow adequate time for any necessary actions leading to implementation of corrective actions at any plant. Therefore, the Commission continues to believe that the reporting requirement as written in the proposed rule is necessary, and has not changed the reporting requirement in the final rule.

Alternatives to Flux Reduction

Comment: Sixteen commenters responded that, for those plants projected to exceed the screening criterion, the bias toward flux reduction as the "preferred" corrective action should be eliminated, and that other options should be allowed, including

early analyses to justify actions other than flux reductions.

Response: The rule does not preclude options other than flux reduction measures. The implementation schedule for flux reduction options may include consideration of other options proposed by the licensee provided those other options are thoroughly justified by the licensee on a time schedule that will allow Commission review and acceptance before the efficacy of flux reduction is precluded by the passage of time.

Guidance of Plant-Specific Analysis

Comment: Thirteen commenters responded that the guidance and acceptance criteria for the analyses required by the rule should be provided with the rule, or the rule should be delayed until they can be provided.

Response: The Commission believes that the rule addresses an important safety issue and should be promulgated without delay. The development of the guidance and acceptance criteria involves performance by the staff and its contractors of analyses of the type to be required later from some licensees. The performance of the analyses requires several sequential steps which cannot be significantly shortened, and the insights to be gained from these analyses are necessary before the staff can draft its guidance. Therefore, the Commission believes that the best course of action is to promulgate the rule now and provide the guidance and acceptance criteria in late 1985 or early 1986. This will be at least a decade before any licensee will need to begin performing the analyses for submittal three years before exceeding the RT_{PTS} criteria, based on the Commission's current understanding of the flux levels at all PWRs. In order to avoid difficulty for any licensee where this expectation is not fulfilled, the Commission has changed the final rule to require licensees to submit the required analyses three years before the plant is projected to exceed the screening criterion, or one year after issuance of the guidance and acceptance criteria, whichever is later.

If a licensee elects to perform analyses to justify alternatives to flux reduction prior to issuance of the final guidance and acceptance criteria, the staff will provide on request its best current judgement of what analyses are likely to be acceptable and what level of safety will be required.

Timing of Required Plant-Specific Analyses

The Commission invited public comments regarding whether the

detailed analyses should be required five years prior to exceeding the screening criterion, instead of the three years in the proposed rule.

Comment: Eleven commenters responded with ten of the eleven stating that three years is preferable. The eleventh comment stated that a five year requirement would be useful to the extent that it would lead to earlier Commission reaction and a longer lead time for implementation, but also noted that "unless the NRC reaction is timely, the advantage will be lost."

Response: The Commission believes that three years allows adequate time for review and implementation of any necessary corrective actions. Therefore, the three year requirement has been retained in the final rule.

Necessity of PTS Rule

Comment: One commenter responded that the rule is not necessary and that its purpose could be accomplished with a generic letter or plant-specific action, since the lead plants have already been identified.

Response: The Commission evaluated alternatives to rulemaking prior to publication of the proposed rule. Plant-specific information is needed to determine whether or not corrective actions are needed, in sufficient time to allow implementation before PTS risk exceeds acceptable levels. The Commission believes a rule is the appropriate means to accomplish the above for all plants that may require action.

Adequacy of Bases for Proposed Rule

Comments were received from two individuals that expressed general concerns regarding the Commission's bases for the proposed rule. These individuals' various contentions are briefly noted below with the Commission's response.

Comments:

- (1) Flux measurements and/or calculations are uncertain.
- (2) Basis and assumptions of PTS rule are incorrect.
- (3) There are other causes of embrittlement that are not considered by the PTS rule.
- (4) Coupons used to monitor vessel steel embrittlement are not representative of the vessel material.
- (5) PRA techniques are inadequate.

Response: When the NRC staff performed the studies upon which the PTS rule is based, it was recognized that there were many uncertainties involved in determination of risk due to PTS. The uncertainties were taken into account when the screening criterion was

selected, allowing a conservative margin for safety and time for implementation of identified corrective actions before an acceptable level of safety is exceeded. The probabilistic risk analysis (PRA) and deterministic methods used and conclusions reached that risk is acceptable for vessels with RT_{PTS} below the screening criterion are discussed in SECY-82-465, SECY-83-288, and in the Federal Register Notice of Proposed Rulemaking (February 7, 1984).

Comment:

(6) The ability to detect cracks greater than 1/4-inch in depth, and the "leak before break" principle, are relied upon in the resolution of Unresolved Safety Issue A-11, Reactor Vessel Materials Toughness.

Response: This comment is not relevant to the bases for the PTS rule since the existence of a non-detected, non-leaking crack was conservatively assumed in the PTS analyses.

Comment:

(7) The rule should apply to BWR's.

Response: The Commission does not believe that PTS is a significant safety concern for BWRs, and believes that the PTS rule should not be applied to BWRs. The several technical reasons for this (low probability of the event, lesser embrittlement due to shielding from larger amounts of water, and lower stress intensity due to a thinner vessel) are explained in the staff testimony given at the licensing board hearing for Limerick in response to contentions by the same commentator.⁴

Comments:

(8) The bases for the PTS rule come mostly from operating reactor data.

(9) The screening criterion in the PTS rule is not based on observed precursors.

Response: As explained in SECY-82-465, the PTS rule is based both on a study of PTS precursors that have actually occurred, and on analytical studies of more severe events that have not actually occurred.

Comments:

(10) Generic analyses used without verification for specific plants.

(11) Link between Control System Interactions and Pressurized Thermal Shock not properly included.

Response: The PTS rule establishes a screening criterion, with a conservative margin to allow for uncertainties, below which the Commission has concluded that PTS risk is acceptable for any PWR. The rule also requires that plant-specific

analyses be performed to identify any necessary corrective actions, well before the screening criterion is exceeded. Those required analyses will be plant-specific and will be required to include items such as control system interactions.

Comment:

(12) The Commission's analyses had to assume the existence of flaws.

Response: This is correct. If no flaw exists, then there is no PTS problem. Therefore, the Commission's analysis made the conservative assumption of the existence of a flaw, the depth of which was chosen, for each analysis, to maximize the likelihood of vessel failure.

Comment:

(13) B&W reactors are more susceptible to PTS-related failure.

Response: Based on staff analysis, reported in Enclosure C to SECY-83-288, the Commission concluded that the PTS risk for B&W plants is not significantly different from that for other PWRs.

Comment:

(14) Pump seal failures are not accounted for.

Response: Pump seal failure is one postulated cause of a small Loss of Coolant Accident (LOCA) and was accounted for in the analyses on which the PTS rule is based.

Comment:

(15) Missiles might penetrate containment during a PTS event.

Response: The analysis on which the PTS rule is based assume that vessel failure and core melt is a serious safety threat and must be avoided with or without containment failure. Those analyses did not quantify the probability of containment failure. However, the screening criterion was set at a value sufficiently low to account for the perceived small probability that a PTS event might fail containment. The Commission's long-term studies of PTS include analyzing the possibility of containment failure, and it is expected that the analyses required by the PTS rule will also require each licensee to perform such evaluations before the screening criteria specified are exceeded.

Comment:

(16) Fuel maneuvers to lower the fluence invite licensee cheating.

Response: The type of "maneuvers" performed to lower fluence to the critical welds are not the day-to-day maneuvers evidently envisioned by the commentator. These "maneuvers" involve selection of a particular pattern for arranging various types of fuel with various burnups in the core. This is done every year to 18 effective full power months when the core is reloaded, and

is thoroughly verified by multiple checks. The flux reduction accomplished is also verified both experimentally and analytically, and will be reviewed by the Commission.

Comment:

(17) Fracture mechanics calculations do not have an experimental basis. The largest vessel ever tested was 1/6th-scale, and it "burst at 1/3rd the pressure calculated using fracture mechanics considerations."

Response: The experimental and analytical bases for the Commission's fracture mechanics methods are thoroughly documented (for example, in SECY-82-465) and are generally accepted in the engineering community as adequately conservative. A recent 1/6th-scale vessel test, the first such vessel subjected to pressure and thermal stress, failed at a stress very close to the predicted stress.⁵

Comments on Supplementary Information Section of Notice of Proposed Rulemaking

Several comments were received that relate to the Supplementary Information section of the February 7, 1983 Federal Register Notice. These comments are discussed below.

Number of Reactors Expected to Remain in Below RT_{PTS} Criterion

Comments: Several commenters took issue with the possible implication of a statement made that most PWRs will exceed the RT_{NDT} criterion.

Response: The Commission agrees that the implication is incorrect, and notes that it currently projects that the majority of plants are not expected to exceed the criterion before the expiration of the operating license.

Conservatism of Rule

Comment: Eight of the commenters responded to the statement by Commissioners Asselstine and Gilinsky in the Supplementary Information section that numerous conservative factors, unconservative factors, and unknown factors in the PTS analyses need to be considered appropriately in the acceptance criteria being developed by the staff, and that a suitable margin of safety should be retained throughout the service life of the facility. The commenters felt that in light of recent work by Oak Ridge National Laboratory, Electric Power Research Institute, etc., the staff has adequately

⁴Limerick Licensing Board, Order dated November 15, 1983, Memorandum and Order Granting Applicant's Motion for Summary Disposition of Contention 1-62, Docket Nos. 50-352-OL and 50-353-OL.

⁵Heavy Section Steel Technology Program, Semiannual Program Report, NUREG/CR-3744 Vol. 1, C.E. Pugh. Copies are available for public inspection and copying at the Public Document Room at 1717 H. Street, Washington, D.C. 20555.

considered all factors and the statement is unwarranted.

Response: The Commission believes that although considerable knowledge has been gained about PTS in the past two years, the previous statement by Commissioners Asselstine and Gilinsky remains valid.

Consideration of Possible License Extension

Comment: Several commenters viewed the statement in the Supplementary Information section regarding licensee consideration of the possibility of future license extension requests when evaluating flux reduction options, as premature, and recommended deletion.

Response: The rule does not explicitly require this consideration, but the Commission continues to believe that the potential for license extensions is a factor that licensees should consider.

Preferred Risk Reduction Actions

Comment: Several commenters recommended deletion of a statement in the Supplementary Information section that in the analysis of modifications in support of operation beyond the screening criterion, "[m]odifications to equipment or systems are preferable to reliance on procedure modifications."

Response: Since the statement could be interpreted as prejudging a regulatory decision, it has not been included in the Supplementary Information section of this rule.

Thermal Annealing Requirement in Appendix G to 10 CFR Part 50

Comment: Sixteen comments were received in response to the Commission's request for public comment on the merits of eliminating the thermal annealing requirements of 10 CFR Part 50, Appendix G (Fracture Toughness Requirements) paragraph IV.B., which states:

"Reactor vessels for which the predicted value of upper-shelf energy at end of life is below 50 ft-lb or for which the predicted value of adjusted reference temperature at end of life exceeds 200 °F (93 °C) must be designed to permit a thermal annealing treatment at a sufficiently high temperature to recover material toughness properties of ferritic materials of the reactor vessel beltline."

All of the commenters said this requirement was too restrictive and should be deleted. The most-cited reason was that annealing is only one of the possible actions and deletion would provide desirable flexibility to demonstrate acceptably low risk. None of the commenters said it was a

hardship to design to permit annealing, although one wrote, "As a practical matter, it is impossible to design for a process that has not been technically developed." On the other hand, eight of the commenters urged that deletion "... should not in any way imply that a utility is prevented from using the thermal annealing process as an option to increase safety margin."

Response: The Commission accepts the comment that to require design for annealing if radiation damage is expected to be significant is too restrictive. The decision to anneal is largely an economic one, which should be left to the licensee. Paragraph IV.B was intended to alert applicants that annealing might someday need to be considered, to require that it be considered in the design phase if a significant level of radiation damage is expected, and to define that level. Yet, it appears that there have been few, if any, actual design features added to accommodate annealing. Other maintenance, inspection and repair operations place similar requirements on clearances and radiological hazards. Vessel expansion at the nozzles is not expected to exceed that experienced in operation at the design temperature (650 °F). The extra features on the surveillance program are referred to briefly in ASTM E 185, which is referenced in Appendix H to 10 CFR Part 50. Thus, it can be concluded that this paragraph has had little impact on the design of plants. Third, the 200 °F RT_{NDT}/50 ft-lb criteria have been misinterpreted in the past to mean that operation beyond those limits is unsafe, which is not true. For these reasons, the Commission is planning a separate rulemaking action to delete paragraph IV.B. of Appendix G, 10 CFR Part 50. The annealing alternative will remain in the regulation, as given in paragraph V.D. of Appendix G.

Fracture Mechanics Methodology To Be Used for Plant-Specific Analysis

Comment: One telephone comment was received regarding a perception that the Commission would encourage or require development and use of the newest fracture mechanics techniques for the required plant-specific PTS analyses.

Response: It is anticipated that the forthcoming staff guidance on the preparation of plant-specific PTS analyses will specify that the deterministic fracture mechanics techniques underlying the algorithms in the probabilistic fracture mechanics evaluations be conservative, standard methodologies that have been in use for some time. It is not the intent of the

Commission to require use of new methods that would "break new ground", such as those which account for elastic-plastic deformation.

Explanation of the Rule Requirements

Paragraph (b)(2) of § 50.61 establishes an RT_{PTS}-based screening criterion, and presents the conservative method chosen by the staff for the calculation of the RT_{PTS} for the purpose of comparison with the screening criterion. The basis for selection of this method is presented in Appendix E of Enclosure A to SECY 82-465. Since the acceptability of the screening criterion was based on generic studies, and since the purpose of the criterion is to provide a defined and consistent threshold for initiating the submittal of plant-specific analyses, the rule § 50.61(b)(1) requires each licensee to assess the current and projected values of RT_{PTS} using the methodology described in paragraph (b)(2) of the rule. Although the Commission expects that alternative methods of determining RT_{NDT} may be justified for use in plant-specific evaluations of PTS events in the future, the rule requires that the prescribed conservative method for calculating RT_{PTS} be used to determine when the plant-specific evaluations must be performed.

Applicants for operating licenses are required to provide projected values of RT_{PTS} as part of the final safety analysis report as provided in the amendment to paragraph (b) of § 50.34, "Contents of Applications: Technical Information."

On the basis of information currently available, it appears that the RT_{PTS} of most reactor vessels will remain below the screening criterion throughout the service life. For other reactor vessels, fuel management programs could be instituted that would result in core configurations reducing neutron flux at critical locations, thereby slowing the increase of RT_{PTS} so that the screening criterion would not be exceeded. The Commission recognizes that further refinements in materials information, analyses of PTS event frequencies and scenarios, and plant-specific analyses of alternative measures to reduce PTS risk may provide a basis for the acceptability of continued operation with RT_{PTS} values in excess of the screening criterion. The preparation and review of such analyses and determination of their acceptability will require substantial time. However, the effectiveness of flux reduction programs depends on early implementation. The Commission has determined that reasonably practicable flux reduction programs should be implemented promptly where needed to maintain

reactor vessel RT_{PTS} below the screening criterion, without awaiting possible plant-specific determinations that higher values of RT_{PTS} are acceptable.

Therefore, the rule § 50.61(b)(3) requires licensees with pressure vessels for which the reference temperature is projected to exceed the screening criterion before the expiration date of the operating license to submit an analysis of such flux reduction programs as are reasonably practicable to avoid exceeding the screening criterion, and a schedule for implementation of such programs. The NRC staff will review these submittals to confirm that reasonably practicable programs have been, or will be, implemented.

At the time of this submittal, or at a later time, licensees may submit additional plant-specific analyses to justify (by new information, improved analyses or evaluations of alternative measures) operation with less restrictive flux reduction programs in the future. The proposed schedule for implementation of any needed flux reduction program may reflect appropriately the possibility of such justification. However, it is the Commission's intent that the effectiveness of flux reduction programs that are needed to avoid, or to delay, reaching the screening criterion, and that are reasonably practicable, should not be reduced by delay in implementation, pending review of these analyses. The Commission expects that in evaluating the need for flux reduction programs, each licensee will consider the possibility that, in the future, the licensee may wish to seek approval of a license amendment to extend the expiration date of the license. Since consideration of protection against PTS events would be a factor in the Commission's decision on such a request, licensees should consider flux reduction programs that would prevent reaching the screening criterion by the end of the anticipated service life of the facility.

When a licensee determines, and the Commission agrees, that reasonably practicable flux reduction measures have been or will be implemented, and that the vessel RT_{PTS} is still projected to exceed the screening criterion before expiration of the operating license, then the rule (§ 50.61(b)(4)) requires the submittal of a plant-specific safety analysis. The analysis must include an assessment of the vessel fracture mechanics properties for the remainder of vessel life, including effects on PTS risk of possible changes in fuel loading patterns affecting the neutron flux at the vessel wall. The analysis must also

include a quantitative assessment of the PTS risk due to operation of the particular plant. It must identify potential event sequences that contribute significantly to PTS risk. It must consider both the expected frequency of these event sequences and the conditional probability of vessel failure and subsequent core melt, given the occurrence of these event sequences, and identify what, if any, modifications to equipment, systems and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events, if continued operation beyond the screening criterion is allowed. Finally, the analysis must estimate the effects of recommended corrective actions on PTS risk and must justify, partly on the basis of risk analysis, operation at RT_{PTS} values above the screening criterion after completion of corrective or mitigative actions.

The plant-specific analysis must be submitted substantially in advance of the projected time at which the screening criterion would be exceeded, to allow time for Commission review of the analysis and licensee implementation of any proposed modifications well in advance of reaching the screening criterion. It is the Commission's intent that the staff perform a timely review of these analyses so that decisions, regarding any necessary corrective actions, are made with allowance for sufficient time to implement corrective actions before the screening criterion is exceeded.

Section 50.61(b)(5) of the rule provides for Commission review of these analyses. The Commission must approve the analysis before the plant may operate at RT_{PTS} values above the screening criterion.

The staff is developing additional guidance on the content of the required plant-specific analysis and on the acceptance criteria the staff will use in reviewing the analysis. The staff expects this guidance to be available long before any licensee will be required to start such an analysis (based on estimated rates of RT_{PTS} increase and recent information regarding the efficacy of flux reduction techniques planned at several plants with high RT_{PTS} values). The rule requires submittal of the plant-specific analysis at least three years before the screening criterion would be exceeded or one year after staff issuance of the guidance and acceptance criteria regarding those analyses, whichever is later. No plant-specific analysis performed in response to the requirement of § 50.61(b)(4) should be started before issuance of this

additional staff guidance. However, should a licensee decide to perform a plant-specific PTS safety analysis as part of its response to § 50.61(b)(3) in support of alternatives to, or implementation schedules for, flux reduction measures, the staff will meet, upon request, with the licensee to provide its best current guidance for such analysis.

Paragraph (b)(6) of § 50.61 provides that if the Commission concludes that the plant-specific analysis, including any plant modifications proposed, does not provide a basis for approval of operation at values of RT_{PTS} in excess of the PTS screening criterion for a given facility, then that facility may not be operated beyond the criterion unless the licensee requests and receives Commission approval based on additional modifications or new factors that would reduce the potential for failure of the reactor vessel due to PTS events.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3) (ii) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule specifies minimum fracture toughness properties of irradiated pressure vessel materials to ameliorate the effects of PTS events on nuclear facilities licensed under the provisions of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act of the Small Business Size Standards in regulations issued by the Small Business Administration at 13 CFR Part 121.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150-0011.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H. Street, NW, Washington, DC 20555. Single copies of the analysis may be obtained from Mr. Karl Kniel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-7359.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.34 is amended by adding a new paragraph (b)(9) to read as follows:

§ 50.34 Contents of applications; technical information.

(b) * * *

(9) A description of protection provided against pressurized thermal shock events, including projected values of the reference temperature for reactor vessel beltline materials as defined in § 50.61 (b)(1) and (b)(2).

3. A new § 50.61 is added to read as follows:

§ 50.61 Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events.

(a) *Definitions.* For the purposes of this section:

(1) "ASME Code" means the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section III, "Rules for the Construction of Nuclear Power Plant Components," edition and addenda as specified by § 50.55a, Codes and Standards.

(2) "Pressurized Thermal Shock Event" means an event or transient in pressurized water reactors (PWRs) causing severe overcooling (thermal shock) concurrent with or followed by significant pressure in the reactor vessel.

(3) "Reactor Vessel Beltline" means the region of the reactor vessel (shell material including welds, heat affected zones, and plates or forgings) that directly surrounds the effective height of the active core and adjacent regions of the reactor vessel that are predicted to experience sufficient neutron radiation damage to be considered in the selection of the most limiting material with regard to radiation damage.

(4) "Initial RT_{NDT} " means the reference temperature for a reactor vessel material as defined in the ASME Code, Paragraph NB-2331. RT_{NDT} means the reference temperature as adjusted for the effects of neutron radiation for the period of service in question.

(5) " RT_{PTS} " means the reference temperature calculated by the method given in paragraph (b)(2) of this section for use as a screening criterion.

(b) *Requirements.*

(1) For each pressurized water nuclear power reactor for which an operating license has been issued, the licensee shall submit projected values of RT_{PTS} (at the inner vessel surface) of reactor vessel beltline materials by giving values from the time of submittal to the expiration date of the operating license. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. This assessment must be

submitted by January 23, 1986, and must be updated whenever changes in core loadings, surveillance measurements, or other information indicate a significant change in projected values.

(2) The pressurized thermal shock (PTS) screening criterion is 270 °F for plates, forgings, and axial weld materials, or 300 °F for circumferential weld materials. For the purpose of comparison with this criterion, the value of RT_{PTS} for the reactor vessel must be calculated as follows. The calculation must be made for each weld and plate, or forging, in the reactor vessel beltline. For each material, RT_{PTS} is the lower of the results given by Equations 1 and 2.

$$\text{Equation 1: } RT_{PTS} = I + M + \left[\frac{-10 + 470}{Cu + 350 Cu Ni} \right] f^{0.370}$$

$$\text{Equation 2: } RT_{PTS} = I + M + 293 f^{0.194}$$

(i) "I" means the initial reference temperature of the unirradiated material measured as defined in the ASME Code, Paragraph NB-2331. If a measured value is not available, the following generic mean values must be used: 0 °F for welds made with Linde 80 flux, and -50 °F for welds made with Linde 0091, 1092 and 124 and ARCOS B-5 weld fluxes.

(ii) "M" means the margin to be added to cover uncertainties in the values of initial RT_{NDT} , copper and nickel content, fluence and the calculational procedures. In Equation 1, $M = 46$ °F if a measured value of I was used, and $M = 59$ °F if the generic mean value of I was used. In Equation 2, $M = 0$ °F if a measured value of I was used, and $M = 34$ °F if the generic mean value of I was used.

(iii) "Cu" and "Ni" mean the best estimate weight percent of copper and nickel in the material. The source of these values must be included in the assessment. The relationship of the material, on which any measurements were made, to the actual material in the pressure vessel must be described.

(iv) "f" means the best estimate neutron fluence, in unit of 10^{19} n/cm² (E greater than or equal to 1 MeV), at the clad-base-metal interface on the inside surface of the vessel at the location where the material in question receives the highest fluence for the period of service in question.

(3) For each pressurized water nuclear power reactor for which the value of RT_{PTS} for any material in the beltline is projected to exceed the PTS screening criterion before the expiration date of the operating license, the licensee shall submit by April 23, 1986, an analysis and schedule for implementation of such

flux reduction programs as are reasonably practicable to avoid exceeding the PTS screening criterion set forth in paragraph (b)(2). The schedule for implementation of flux reduction measures may take into account the schedule for submittal and anticipated Commission approval of detailed plant-specific analyses, submitted to demonstrate acceptable risk at values of RT_{PTS} above the screening limit due to plant modifications, new information or new analysis techniques.

(4) For each pressurized water nuclear power reactor for which the analysis required by paragraph (b)(3) of this section indicates that no reasonably practicable flux reduction program will prevent the value of RT_{PTS} from exceeding the PTS screening criterion before the expiration date of the operating license, the licensee shall submit a safety analysis to determine what, if any, modifications to equipment, systems, and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events if continued operation beyond the screening criterion is allowed. In the analysis, the licensee may determine reactor vessel materials properties based on available information, research results, and plant surveillance data, and may use probabilistic fracture mechanics techniques. This analysis must be submitted at least 3 years before the value of RT_{PTS} as defined in paragraph (b)(2) of this section is projected to exceed the PTS screening criterion or by one year after issuance of the Commission Guidance and Acceptance Criteria for these analyses, whichever is later.

(5) After consideration of the licensee's analyses (including effects of proposed corrective actions, if any) submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the Commission may, on a case-by-case basis, approve operation of the facility at values of RT_{PTS} in excess of the PTS screening criterion. The Commission will consider factors significantly affecting the potential for failure of the reactor vessel in reaching a decision.

(6) If the Commission concludes, pursuant to paragraph (b)(5) of this section, that operation of the facility at value of RT_{PTS} in excess of the PTS screening criterion cannot be approved on the basis of the licensee's analyses submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the licensee must request and receive Commission approval prior to

any operation beyond the criterion. The request must be based upon modifications to equipment, systems, and operation of the facility in addition to those previously proposed in the submitted analyses that would reduce the potential for failure of the reactor vessel due to PTS events, or upon further analyses based upon new information or improved methodology.

Dated at Washington, DC, this 17th day of July 1985.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-17463 Filed 7-22-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-16; Special Conditions No. 25-ANM-7]

Special Conditions: Aerospatiale Model ATR-42 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to Aerospatiale/Aeritalia, Toulouse, France, for a type certificate for the ATR-42 series airplane. The ATR-42 airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The ATPCS will allow the airplane to take off with less than maximum takeoff thrust approved for the airplane; and, if an engine fails, the system will automatically provide maximum takeoff thrust on the operating engine. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to that provided by the regulations applicable to the ATR-42 series airplane because of the novel or unusual features.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Walker, Policy and Procedures Branch, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

In February of 1982, Aerospatiale Division of Avions, 316 Route De Bayonne, 31060 Toulouse Cedex 3, France, applied for a United States Import Type Certificate for its Model ATR-42 series airplane.

The Model ATR-42 is a high wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 34,720 pounds. The airplane is equipped with two Pratt and Whitney PW-120 turbopropeller engines, each producing 2,000 shaft horsepower. The airplane has a maximum seating capacity for 50 persons, including the crew, and a maximum permissible altitude of 25,000 feet.

The design covered under the type certificate is the installation of an ATPCS. Automatic takeoff power control system special conditions issued to date for other airplanes require the ATPCS be designed to permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of power levers. The ATPCS system installed on the engines of the ATR-42 airplane contains an electronic fuel controller (EFC), which provides an automatic fixed speed increment increase in the event of an engine failure during takeoff. In the event of an engine failure, a signal from the ATPCS is transmitted to the EFC which up-trims the operating engine to the approved takeoff power. In the event of an ATPCS failure concurrent with engine failure, the crew would be required to advance the power lever to obtain the maximum power.

The type design of the ATR-42 series airplane with the automatic system installed contains a number of novel or unusual design features for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that generally intended by the established certification basis and to support a finding by the Administrator that no feature or characteristic of the airplane with the automatic system installed makes it unsafe for the category in which certification is required. These special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions of manual selection of the maximum takeoff power approved for

the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of approved maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

Discussion of Comments

Notice of proposed special conditions No. SC-85-1-NM for the ATR-42 series airplane was published in the *Federal Register* on February 26, 1985 [50 FR 7791]. Only one person, the applicant, commented.

The applicant notes that the description in the preamble of the control operation for a simultaneous engine and ATPCS system failure event incorrectly states that crew action is required to deactivate the system to obtain maximum takeoff power. In fact, the only crew action to obtain maximum power for the ATR-42 in the failure event is to manually advance the engine power lever.

The FAA notes the correct operation method; however, paragraph E2(b) of the special conditions is not revised as this paragraph still remains applicable for either an automatic system override or a manual system. It is understood the ATR-42 engines do not have the limiters referred to in paragraph E2(b) and that the manual method is required to obtain the engine power increase.

Another comment expressed by the applicant is that the proposed reliability requirements in paragraphs C1 and C2 of the special conditions are too conservative. The applicant states that in addition to avoiding unnecessary costs due to system complexity, relaxation of these reliability criteria can reduce the need for pre-flight checks of the system and thus reduce flightcrew workload. In lieu of paragraphs C1 and C2, the applicant proposes replacing these paragraphs with the corresponding text of the French Special Condition BB 1 (Issue 2, Oct. 1984).

The FAA has determined that

paragraphs C1 and C2 of the special conditions do provide the level of safety necessary to satisfy an equivalent safety finding on the issue of trading airplane performance for a calculated ATPCS reliability and to assure a minimum safety standard intended by the applicable regulations. The FAA notes the arguments of the commenter; however, it has been determined that the special conditions, as issued, are necessary for acceptance of a system that automatically increases power or thrust on operating engines when one engine fails during takeoff.

Type Certification Basis

The type certification basis for the Aerospatiale/Aeritalia ATR-42 series airplane with the ATPCS installed, to be incorporated in the type certificate, is Part 25 of the FAR, including Amendments 25-1 through 25-54; Part 36 of the FAR, including Amendments 36-1 through current amendment; § 21.29 of the FAR; SFAR 27, dated December 12, 1973, including Amendments 27-1 through current amendment; and the special conditions for and ATPCS contained herein.

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b) effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion:

This action affects only certain unusual or novel design features on one model series of airplanes. It is

on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

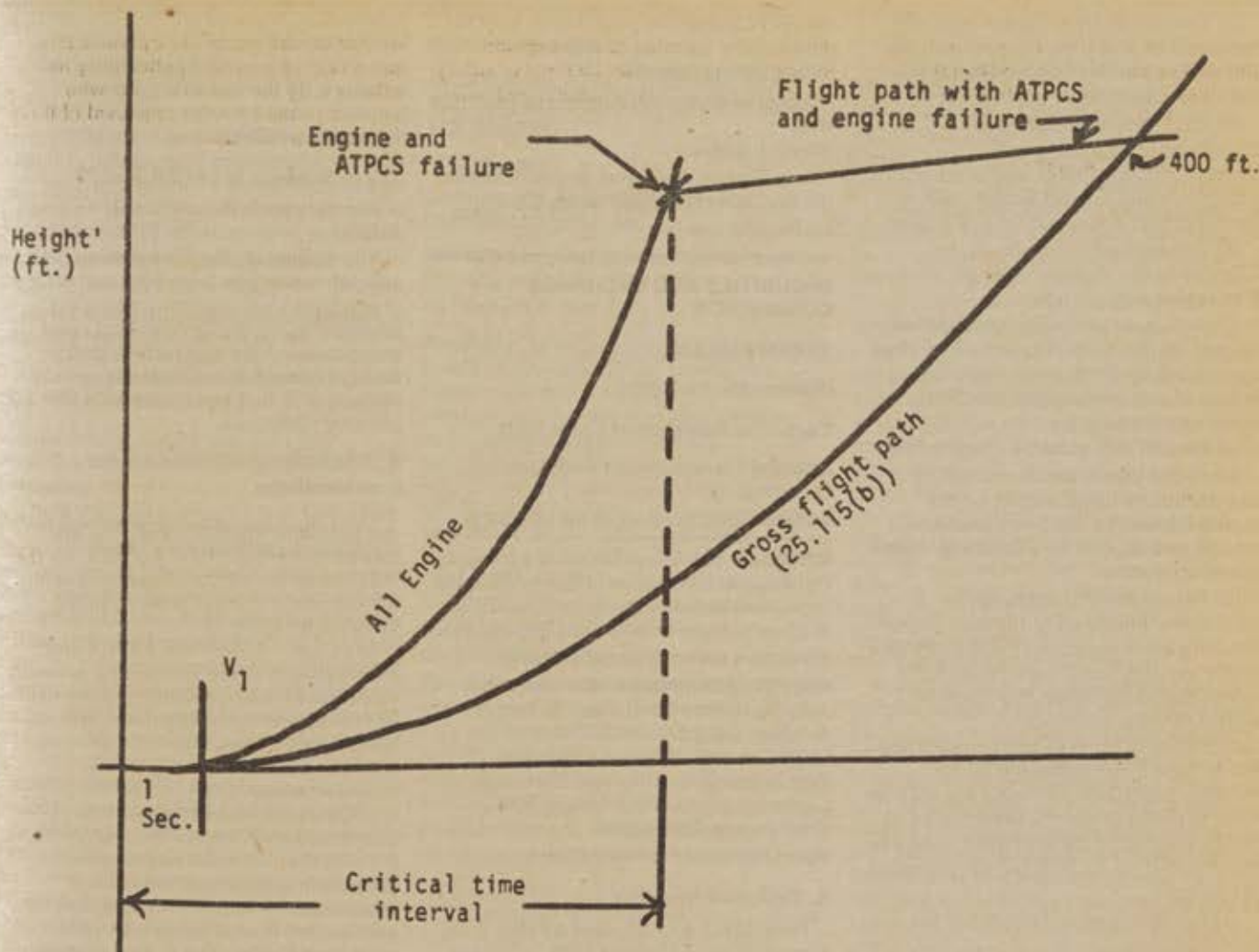
The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Aerospatiale/Aeritalia for the ATR-42 series airplane equipped with an automatic takeoff power control system (ATPCS):

(A) *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

(B) *Definitions.*—(1) *Automatic Takeoff Power Control System (ATPCS).* An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

(2) *Critical Time Interval.* When conducting an ATPCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at not less than 400 feet from the takeoff surface. This definition is shown in the following graph.



(3) *Takeoff Power.* Notwithstanding the definition of "takeoff power" in Part 1 of the FAR, "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

(C) *Performance Requirements.* The applicant must comply with the following performance and reliability requirements.

(1) An ATPCS system failure during the critical time interval must be shown to be improbable.

(2) The concurrent existence of an ATPCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(3) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the

most critical point during takeoff with the ATPCS system functioning.

(D) *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

(1) Ninety percent (90%) of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

(2) That required to permit normal operation of all safety related systems and equipment dependent upon engine power or power lever position; or

(3) That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

(E) *Powerplant Controls*.—1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

(2) The ATPCS must be designed to:

(a) Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

(b) Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever. For aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure, provided the means:

(1) Is located on or forward of the power levers;

(2) Is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers; and

(3) Meets the requirements of § 25.777, paragraphs (a), (b), and (c);

(c) Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

(d) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

(F) *Powerplant Instruments*. In addition to the requirements of § 25.1305:

(1) A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

(2) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of

the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Seattle, Washington, on July 11, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-17390 Filed 7-22-85; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-22208]

Technical Revision of Form MSD

AGENCY: Securities and Exchange Commission.

ACTION: Technical revisions of a form.

SUMMARY: The Commission is adding a Privacy Act Statement to Form MSD, the form used by bank municipal securities dealers to register with the Commission.

EFFECTIVE DATE: September 1, 1985.

FOR FURTHER INFORMATION CONTACT: Amy Natterson Kroll, Esq., Attorney-Advisor, (202) 272-2848, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

A. Technical Revision

Form MSD was adopted by the Commission in October 1975, pursuant to Section 15B of the Securities Exchange Act of 1934 which requires all municipal securities dealers to register with the Commission. Form MSD is the application used by bank municipal securities dealers that register with the Commission. The Commission is now amending the General Instructions of Form MSD to include a Privacy Act Statement, pursuant to 5 U.S.C. Section 552a(e)(3), informing bank municipal securities dealers that the information they are required to disclose on Form MSD will be used primarily for determining whether to grant or deny their registration and social security numbers, if furnished, will be used only to assist the Commission in identifying applicants. The statement also indicates that information supplied on Form MSD will be included in the Commission's public files and will be available for inspection by any interested person. Specifically, the statement indicates: (1) the Commission's authority to solicit

information required on the Form MSD, (2) that disclosure of the information is mandatory, except for social security numbers, (3) the use of the information, including social security numbers, (4) the public availability of Form MSDs and the information they contain, (5) the unacceptability of a form which does not comply with the applicable disclosure requirements, (6) the absence of any finding by the Commission that an application has been filed correctly or contains true, current or complete information by the Commission upon acceptance of the application, and (7) that intentional misstatements or omissions of fact constitute federal criminal violations.

B. Administrative Procedure Act Considerations

The Commission has determined that the Administrative Procedure Act requirements of notice and public procedure are not applicable to this amendment pursuant to 5 U.S.C. Section 553(b).¹ The Commission finds that such notice and public procedure are impracticable and unnecessary because this amendment of Form MSD will impact neither the public nor the applicable industry. Rather, this technical amendment will merely inform applicants for registration as municipal securities dealers and their associated persons that the Commission will use the information they provide in processing the application and that the information is available to the public upon registration. The Commission also finds good cause for this amendment to be made effective as of September 1, 1985 in order to insure that all Form MSDs available after such date include the appropriate Privacy Act Statement. This is necessary in order to comply with requirements of the Paperwork Reduction Act, as administered by the Office of Management and Budget.

Because this amendment to Form MSD is a technical amendment, requiring no notice or public procedure, the provisions of the Regulatory Flexibility Act do not apply.

C. Statutory Authority

The Securities and Exchange Commission, acting pursuant to the Exchange Act, particularly Sections 15.

¹ This section excepts rulemaking from the general notice and public procedure requirements when an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest."

15B, 17(a) 23(a) (15 U.S.C. 78o-4(a)(2), 78w(a)) hereby amends Chapter II, Title 17 of the Code of Federal Regulations adopting the following amendment to Section 249.1100.

Lists of Subjects in 17 CFR Part 249

Privacy Act, Securities, Municipal securities dealers.

Text of Amendment

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 249 continues to read as follows:

Authority: The Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.*

2. By adding paragraph M to the general instructions of Form MSD as follows:

§ 249.1100 Form MSD, application for registration as a municipal securities dealer pursuant to rule 15Ba2-1 under the Securities Exchange Act of 1934 or amendment to such application.

M. Under Sections 15, 15B(a), 17(a) and 23(a) of the Securities Exchange Act of 1934 and the Rules and Regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this form from applicants for registration as a municipal securities dealer (and persons associated with applicants). Disclosure of the information specified on this form is mandatory prior to processing of applications for registration as a municipal securities dealer, except social security numbers, disclosure of which is voluntary. The information will be used for the principal purpose of determining whether the Commission should grant or deny registration to an applicant; social security numbers, if furnished, will be used only to assist the Commission in identifying applicants and, therefore, in promptly processing applications. Information supplied on this form will be included routinely in the public files of the Commission and will be available for inspection by any interested person. A form which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this form, however, shall not constitute any finding that it has been filed as required or that the information submitted is true, current or complete. Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)).

By the Commission.

John Wheeler,

Secretary.

July 2, 1985.

[FR Doc. 85-17437 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, and 191

[T.D. 85-123]

Conforming Amendments to the Customs Regulations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: In accordance with Customs policy of periodically reviewing its regulations to ensure that they are current, this document makes certain conforming changes which are necessary because of various executive, legislative, and administrative actions. Several of the changes in the document implement provisions of the Trade and Tariff Act of 1984. The changes merely conform the regulations to existing law or practice. They are nonsubstantive and essentially are procedural.

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT :

Marvin M. Amernick, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to keep its regulations current, the Customs Service has determined that various executive, legislative, and administrative actions require conforming amendments to the Customs Regulations contained in Chapter 1, Title 19, Code of Federal Regulations (19 CFR Chapter 1). Following is a list of these actions, the affected sections of the regulations, and the necessary changes.

Discussion of changes

1. Section 204 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amends section 441(3), Tariff Act of 1930, as amended (19 U.S.C. 1441(3)), to add "vessels carrying passengers on excursions from the U.S. Virgin Islands to the British Virgin Islands and returning" to the list of types of vessels which are not required to make entry with Customs.

As footnote 5 of Part 4, Customs Regulations (19 CFR Part 4), corresponding to § 4.3, sets forth 19 U.S.C. 1441 in its entirety, the footnote is being amended to reflect the revision of subsection (3) of 19 U.S.C. 1441.

2. Section 4.7a, Customs Regulations (19 CFR 4.7a), contains instructions for

completing the Cargo Declaration, Customs Form 1302. Although the form has a column for indicating the name of the shipper, such information has not been required. To comply with section 203 of Pub. L. 98-573, the Trade and Tariff Act of 1984, § 4.7a(c) is being amended to reflect this new instruction.

3. Section 208 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amends section 466(e), Tariff Act of 1930, as amended (19 U.S.C. 1466(e)), to make the "special purpose vessel" exemption applicable to any U.S.-flag vessel subject to the vessel repair statute that arrives at a port of the U.S. two years or more after its last departure from a port in the U.S. The amendment further provides that this exemption will not apply to vessels designed and used primarily for transporting passengers and property if the vessel departed the U.S. for the sole purpose of obtaining equipment, parts, materials or repairs. Section 4.14(a)(2)(iii), Customs Regulations (19 CFR 4.14(a)(2)(iii)), is being amended to reflect this amendment to 19 U.S.C. 1466(e).

4. By T.D. 84-213, published in the Federal Register on October 19, 1984 (49 FR 41152), various parts of the Customs Regulations relating to the Customs bond structure were amended. One of the changes made by T.D. 84-213 was to amend § 4.34(h), Customs Regulations (19 CFR 4.34(h)), which concerns cargo undelivered at a foreign port and returned to the U.S., by making specific reference to a bond on Customs Form 301. It now has been discovered that paragraph (h) of § 4.34 contains the identical language as paragraph (g). Accordingly, § 4.34 is being amended by removing paragraph (h) and making the changes set forth in T.D. 84-213 to paragraph (g).

5. Item 808.00, Tariff Schedules of the United States (19 U.S.C. 1202), provided for the duty-free entry of both foreign-built containers in international traffic and of repair components for a particular container. Section 127, Trade and Tariff Act of 1984, amended Subpart C of Part 1 of Schedule 8, Tariff Schedules of the United States, to provide for the duty-free entry of repair components for any such container instead of for a particular container, and also for duty-free entry of accessories and equipment for any such container. Section 10.41a, Customs Regulations (19 CFR 10.41a), is being amended to reflect these changes.

6. It has been determined that the Declaration for Free Entry of Articles for Colleges, Religious Institutions, Etc. (Customs Form 3321), is no longer required in order for an importer of

articles for religious, educational, scientific, and other institutions, to obtain duty-free entry for the articles. Accordingly, it is necessary to amend §§ 10.43, 10.44, 10.52, 10.75, and 145.36, Customs Regulations (19 CFR 10.43, 10.44, 10.52, 10.75, 145.36), which refer to the use of Customs Form 3321 to obtain duty-free entry, to reflect the discontinued use of this form.

7. Pub. L. 93-438, the Energy, Reorganization Act of 1974, transferred to the Energy Research and Development Administration, all functions of the Atomic Energy Commission not specifically transferred to the Nuclear Regulatory Commission. Pub. L. 95-91, the Department of Energy Organization Act of 1978, transferred the functions of the Energy Research and Development Administration to the Department of Energy. Accordingly, § 10.102, Customs Regulations (19 CFR 10.102), which relates to the duty-free entry of articles for governmental agencies or offices, is being amended to delete reference to the abolished agency.

8. Section 115 of Pub. L. 97-446, amended section 321(a)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(A)), to provide that bona-fide gifts from persons in foreign countries to persons in the U.S. having an aggregate fair retail value in the country of shipment not exceeding \$50, may enter the U.S. free of duty and tax and without making a Customs entry. In the case of articles sent from persons in the U.S. Virgin Islands, Guam, and American Samoa, the value is \$100. Previously, the values were \$25 and \$40, respectively. Sections 10.152, 10.153 and 145.32, Customs Regulations (19 CFR 10.152, 10.153, 145.32), are being amended to reflect these changes.

9. Section 206 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amended section 498(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(1)), by increasing the informal entry limit from \$250 to \$1,250. However, it exempted all articles valued in excess of \$250 classified in Schedule 3, parts of Schedule 7, and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated or any other article for which formal entry is required without regard to value. Under 19 U.S.C. 1498(a)(1), the Secretary of the Treasury may specify the exact amount of the informal entry limit. The limit may vary for different classes or kinds of merchandise or different classes of transactions. After thorough consideration of the issue, it has been determined that, with the exception of the specific exclusions, the informal

limit for all articles will be set initially at \$1,000, with the option to increase it to \$1,250 in the future. This change is being reflected by amending §§ 10.173, 141.82, 143.21, 143.22, 143.23, 145.12, 145.35 and 145.41, Customs Regulations (19 CFR 10.173, 141.82, 143.21, 143.22, 143.23, 145.12, 145.35, 145.41).

10. By T.D. 84-109, published in the Federal Register on May 8, 1984 (49 FR 19447), § 10.183, Customs Regulations (19 CFR 10.183), relating to Civil Aircraft, was established. The sample form, entitled "BLANKET CERTIFICATION FOR CIVIL AIRCRAFT PARTS", which was included in § 10.183(d)(2), contains an incorrect reference to, "section 10.183, Customs Regulations (19 U.S.C. 10.183)." the correct reference should be to "§ 10.183, Customs Regulations (19 CFR 10.183)." Accordingly, § 10.183(d)(2) is being amended to correct the reference.

11. T.D. 84-213, published in the Federal Register on October 19, 1984 (49 FR 41152), amended § 19.14(d), Customs Regulations (19 CFR 19.14(d)), relating to the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, by making specific reference to a bond on Customs Form 301. As amended, § 19.14(d) is an incomplete sentence. Accordingly, it is being further amended by adding the words "shall be required" at the end of the sentence.

12. Section 24.16(c), Customs Regulations (19 CFR 24.16(c)), relating to application and bond for overtime services performed by Customs officers, is being amended by removing an "s" at the end of the word "provisions". A bond only contains one provision to secure reimbursement.

13. Section 24.18(f), Customs Regulations (19 CFR 24.18(f)), regarding the reimbursable costs involved in preclearance of air travelers in a foreign country, incorrectly refers to § 24.15, Customs Regulations. Section 24.18(f) is being amended to correct the reference to § 24.16, Customs Regulations.

14. Section 103.11, Customs Regulations (19 CFR 103.11), contains a list of specific Customs Service records subject to disclosure. The list of administrative staff manuals and instructions in § 103.11(a) contains several obsolete publications. It is being revised and updated.

14a. Section 203 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amends section 431 of the Tariff Act of 1930, as amended (19 U.S.C. 1431), by removing the requirement that an importer/

consignee, in its biennial certification, state reasons for requesting confidentiality of its identity and/or the identity of its shipper. Accordingly, Customs is amending § 103.14, Customs Regulations (19 CFR 103.14), to reflect the changes made to 19 U.S.C. 1431. This change will relieve Customs of the requirement to make determinations regarding the legal sufficiency of importer/consignee claims for confidentiality.

15. Various parts of the Customs Regulations relating to the Customs bond structure were amended by T.D. 84-213, published in the Federal Register on October 19, 1984 (49 FR 41152). That document contained a typographical error. The title for the international carrier bond conditions in § 113.64(a), Customs Regulations (19 CFR 113.64(a)), is shown as "Agreement to Pay Penalties, Duties, Taxes, and Other Changes." The correct title is, "Agreement to Pay Penalties, Duties, Taxes, and Other Charges." Section 113.64(a) is being amended to make the correction.

16. Section 207 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amended § 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), to provide that no exception shall be made for the country of origin marking of certain pipe and pipe fittings, compressed gas cylinders, and certain manhole rings or frames, covers, and assemblies thereof, by means of die stamping, cast-in-mold lettering, etching, or engraving, etc. Therefore, "Pipes, iron or steel, and pipe fitting of cast or malleable iron" must be removed from the J-list in § 134.33, Customs Regulations (19 CFR 134.33), which lists those articles which are excepted from the country of origin marking requirements of 19 U.S.C. 1304.

17. Customs Form 6061 and Customs Form 3299, were consolidated into a revised Customs Form 3299 to be used for the declaration for free entry of articles under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

Section 148.77(b), Customs Regulations (19 CFR 148.77(b)), which relates to the entry of effects of persons on the termination of assignment to extended duty, or on an evacuation, is being amended to change the reference from Customs Form 6061 to Customs Form 3299.

18. Various Executive Orders relating to the designation of organizations as public international organizations entitled to certain privileges, exemptions, and immunities, necessitate the following changes to the list of such

organizations in § 148.87(b), Customs Regulations (19 CFR 148.87(b)).

(a) The Coffee Study Group (E.O. 10943) and the Southeast Asia Treaty Organization (E.O. 10866) are being removed because they no longer exist by E.O. 12033 of January 10, 1978.

(b) The first reference to the International Telecommunications Satellite Organization (INTELSAT) (E.O. 11718) is being removed because that E.O. granted limited privileges only. E.O. 11966 of January 19, 1977, revoked E.O. 11718. The second reference to INTELSAT by virtue of E.O. 11966 remains as is on the list.

(c) By virtue of E.O. 12359 of April 22, 1982, the Multinational Force and Observers, and the International Food Policy Research Institute are added to the list. However, the International Food Policy Research Institute is not provided the privileges of section 2(a), section 2(b), section 2(c), that portion of the last clause of section 2(d) relating to official communications and section 7(b) of the International Organizations Immunities Act (22 U.S.C. 288a (a), (b), (c), the last clause of (d) and 288d(b)).

19. Section 152.105, Customs Regulations (19 CFR 152.105), referring to the use of deductive value for Customs purposes in determining the value of imported merchandise, incorrectly contains paragraph headings (h)(3)(a) and (b). These paragraph headings are being changed to read (h)(3)(i) and (h)(3)(ii).

20. Section 152.108, Customs Regulations (19 CFR 152.108), referring to unacceptable bases of appraisal for imported merchandise, incorrectly contains paragraphs numbered (1), (2), (3), (4), (5), (6) and (7). These paragraph headings are being changed to read (a), (b), (c), (d), (e), (f) and (g).

21. Section 213 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amended several sections of the Tariff Act of 1930, as amended, relating to seizures and forfeitures. This causes changes in the administrative forfeiture limits and cost bond requirements contained in Part 162, Customs Regulations (19 CFR Part 162).

Previously, the value of property that could be seized and summarily forfeited to the government was \$10,000. Now it is \$100,000, except that there is no limit to the value of merchandise the importation of which is prohibited that can be summarily forfeited nor is there a limit to the value of vessels, vehicles, or aircraft used to import, export, transport or store any controlled substances, that can be summarily forfeited.

Previously, a bond for costs in the amount of \$250 had to be filed with Customs by anyone claiming an interest

in property seized by the government. Now the amount is \$2500 or 10% of the value of the claimed property, whichever is lower, but not less than \$250.

These changes are being reflected by amending §§ 162.43, 162.45, 162.46, 162.47 and 162.48, Customs Regulations (19 CFR 162.43, 162.45, 162.46, 162.47, 162.48).

22. Section 171.12, Customs Regulations (19 CFR 171.12), is being amended to conform with existing practice in regard to petitions for remission of forfeitures of conveyances. The regulations currently refer to seizure of a conveyance used *in connection with* the importation of illegal drugs or large amounts of firearms. Seizure of conveyances now takes place *after* the importation, exportation, transportation or storage of illegal drugs or firearms.

23. Section 212 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amended § 520 of the Tariff Act of 1930, as amended (19 U.S.C. 520), to provide for the refund, prior to liquidation, of excess duties, fees, charges, or exactions, deposited or paid on an entry by reason of clerical error. Part 173, Customs Regulations (19 CFR Part 173), is being amended to include this new provision for correcting clerical errors.

24. Section 202 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amended section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), by establishing a new type of drawback called "same condition substitution drawback." It also extends direct identification same condition drawback to include drawback on packaging material used to package or repackaged merchandise exported under this type of drawback.

Also, as a result of section 202, the tradeoff provision of drawbacks relating to petroleum has been extended to cover all merchandise under manufacturing drawback (19 U.S.C. 1313 (a) and (b)).

Several sections of Part 191, Customs Regulations (19 CFR Part 191), are being revised to reflect the changes made by section 202.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as these amendments merely conform the Customs Regulations to existing law or practice, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section

1(b) of E.O. 12291, the regulatory analysis and review prescribed by the E.O. is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act". That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) or any other statute.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

In General

Customs duties and inspection.
Imports, Exports.

19 CFR Part 4

Cargo vessels, Fishing vessels, Maritime carriers, Passenger vessels, Vessels.

19 CFR Part 10

Art, Wildlife, Packaging and containers.

19 CFR Part 19

Exports, Surety bonds, Warehouses.

19 CFR Part 24

Accounting.

19 CFR Part 103

Administrative practice and procedure, Freedom of information, Information.

19 CFR Part 113

Surety bonds.

19 CFR Part 134

Labeling, Packaging and containers.

19 CFR Part 141

Imports.

19 CFR Part 143

Imports.

19 CFR Part 145

Postal service.

19 CFR Part 148

Household goods, International Organizations, Military Personnel.

19 CFR Part 152

Packaging and containers.

19 CFR Part 162

Administrative practice and procedures, Penalties, Seizures and forfeitures.

19 CFR Part 171

Administrative practice and procedure, Penalties, Seizures and forfeitures.

19 CFR Part 173

Administrative practice and procedure.

19 CFR Part 191

Drawback.

Amendments to the Regulations

Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, and 191, Customs Regulations (19 CFR Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, 191), are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

The general authority citation for Part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 86, 1624; 46 U.S.C. 3, 2103 * * *

1. Paragraph (3) of footnote 5 to § 4.3 is revised to read as follows:

§ 4.3 Vessels required to enter.

(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided*, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.

3. Section 4.7a(c) is amended by inserting, between the second and third sentences, a new sentence to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.**(c) Cargo Declaration. (1) * * ***

The name of the shipper shall be set forth in the column calling for such information and on the same line where the bill of lading is listed for that

shipper's merchandise. When more than one bill of lading is listed for merchandise from the same shipper, ditto marks or the word "ditto" may be used to indicate the same shipper. * * *

4. Section 4.14 is amended by revising § 4.14(a)(2)(iii) to read as follows:

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

(a) * * *

(2) * * *

(iii) *Vessels outside U.S. for two years or more.*

(A) *Requirements for declaration and entry of dutiable items.* If a vessel which is documented with a registry, coastwise trade, or Great Lakes trade endorsement is operated in international or foreign waters two years or more after its last departure from the U.S., the only dutiable items are fish nets and nettings whenever purchased and any other items purchased or repairs made during the first six months after the vessel's last departure from the U.S. Under these circumstances, only those items (with the exception of fish nets and nettings) purchased and repairs made outside the U.S. during the first six months after the vessel's last departure from the U.S. shall be declared and entered. Fish nets and netting purchased or repaired outside the U.S. shall be declared and entered whether or not purchased or repaired during the first six months after departure.

(B) *Exception.* The provisions of § 4.14(a)(2)(iii)(A) do not apply to a vessel designed and used primarily for transporting passengers and property if such vessel departed the U.S. for the sole purpose of obtaining equipment, parts, materials, or repairs.

5. Section 4.34 is amended by removing paragraph (h) and by revising paragraph (g) to read as follows:

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

(g) *Cargo undelivered at foreign port and returned to the U.S.* Merchandise shipped from a domestic port, but undelivered at the foreign destination and returned, shall be manifested as "Undelivered-to be returned to original foreign destination," if such a return is intended. The district director may issue a permit to retain the merchandise on board, or he may, upon written application of the steamship company, issue a permit on a Delivery Ticket, Customs Form 6043, allowing the merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the bond on Customs

Form 301, containing the bond conditions relating to international carriers set forth in section 113.64 of this chapter. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE ETC.

1. The authority citation for Part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624;

a. Section 10.17 also issued under 19 U.S.C. 1401a, 1402;

b. Section 10.22 also issued under 19 U.S.C. 1304;

c. Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;

d. Section 10.53 also issued under 16 U.S.C. 1521, *et seq.*

e. Section 10.59 also issued under 19 U.S.C. 1309, 1317;

f. Sections 10.61–10.64a also issued under 19 U.S.C. 1309;

g. Sections 10.62a, 10.65 also issued under 19 U.S.C. 1309, 1317, 1555, 1556, 1557, 1646a;

h. Sections 10.70, 10.71 also issued under 19 U.S.C. 1486;

i. Sections 10.80–10.83 also issued under 19 U.S.C. 1313 (e) and (i);

j. Sections 10.152, 10.153 also issued under 19 U.S.C. 1321;

k. Sections 10.171–10.178 also issued under 19 U.S.C. 2461 *et seq.*

l. Sections 10.191–10.198 also issued under 19 U.S.C. 2701 *et seq.*

2. Section 10.41a(a)(2) is revised to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

(a)(1) * * *

(2) Repair components, accessories, and equipment for any container of foreign production which is an instrument of international traffic may be entered or withdrawn from warehouse for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files a declaration that the repair component was imported to be used in the repair of a container of foreign production which is an instrument of international traffic, or that the accessory or equipment is for a container of foreign production which is an instrument of international traffic. The district director must be satisfied that the importer of the repair component, accessory, or equipment had

the declared intention at the time of importation.

3. Section 10.43 and the section heading are revised to read as follows:

§ 10.43 Duty-Free status.

(a) The district director may, at his discretion, require appropriate proof of duty-free status for articles for institutions claimed to be exempt from duty under items 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40, 851.50, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) Appropriate proof may be a copy of the charter or other evidence of the character of the institution for the use of which the articles are imported.

§ 10.44 [Removed]

4. Part 10 is amended by removing

§ 10.44 and marking it "Reserved".

5. Section 10.52 is revised to read as follows:

§ 10.52 Painted, colored or stained glass windows for religious institutions.

When painted, colored, or stained glass windows or parts thereof, are claimed free of duty under item 850.30, Tariff Schedules of the United States (19 U.S.C. 1202), the district director may, at his discretion, require appropriate proof that the importation was designed by, and produced by or under the direction of, a professional artist, and that it is for the use of an institution established solely for religious purposes.

6. Section 10.75 is revised to read as follows:

§ 10.75 Wild animals and birds; zoological collections.

When wild animals or birds are claimed to be free of duty under item 852.20, Tariff Schedules of the United States (19 U.S.C. 1202), the district director may, at his discretion, require appropriate proof that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. That fact that an animal or bird may have been sent on approval shall not preclude free entry under item 852.20 when it is actually accepted as a part of the zoological collection and so exhibited.

§ 10.102 [Amended]

7. Section 10.102(b)(3) is amended by removing the words, "Energy Research

and Development Administration" both places where they appear, and inserting, in their place, "Department of Energy".

§ 10.152 [Amended]

8. Section 10.152 is amended by removing "\$25", and inserting, in its place, "\$50", and by removing "\$40", and inserting, in its place, "\$100".

§ 10.153 [Amended]

9. Sections 10.153(b), (d)(2), (d)(3) and (f) are amended by removing "\$25", and inserting, in its place, "\$50", and by removing "\$40", and inserting, in its place, "\$100".

§ 10.173 [Amended]

10. Section 10.173 is amended by revising the heading of paragraph (a) to read, "Shipments covered by a formal entry"; Paragraph (a) is further amended by deleting, "\$250", and inserting in its place, "\$1,000 (except for articles valued in excess of \$250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated)".

§ 10.183 [Amended]

11. The sample form in § 10.183(d)(2) is amended by removing "(19 U.S.C. 10.183)" and inserting, in its place, "(19 CFR 10.183)".

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The authority citation for Part 19 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624;

Section 19.1 also issued under 19 U.S.C.

1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562;

Section 19.7 also issued under 19 U.S.C.

1555, 1556;

Section 19.11 also issued under 19 U.S.C.

1556, 1562;

Section 19.15 also issued under 19 U.S.C.

1311;

Section 19.16 also issued under 19 U.S.C.

1311, 26 U.S.C. 5723, 5752;

Sections 19.17-19.25 also issued under 19

U.S.C. 1312;

Section 19.40(a) also issued under 19 U.S.C.

1450, 1499, 1623;

Sections 19.41-19.43 also issued under 19

U.S.C. 1499;

Section 19.44 also issued under 19 U.S.C.

1448;

Section 19.45 also issued under 19 U.S.C.

1551, 1565;

Section 19.48 also issued under 19 U.S.C.

1499, 1623;

Section 19.49 also issued under 19 U.S.C.

1484.

2. All other statutory authority cited at the end of various sections in Part 19 is removed.

3. Section 19.14(d) is amended to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

(d) *Domestic spirits and wines.* For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, shall be required.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 31 U.S.C. 9701;

Section 24.1 also issued under 19 U.S.C.

197, 198, 1648;

Section 24.4 also issued under 19 U.S.C.

1623, 26 U.S.C. 5007, 5054, 5061, 7805;

Section 24.11 also issued under 19 U.S.C.

1485(d);

Section 24.12 also issued under 19 U.S.C.

1524, 46 U.S.C. 927;

Section 24.14 also issued under 19 U.S.C. 1;

Section 24.16 also issued under 19 U.S.C.

261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 2111,

2112;

Section 24.17 also issued under 19 U.S.C.

261, 267, 1450, 1451, 1452, 1456, 1524, 1557,

1562, 46 U.S.C. 2110, 2111, 2112;

Section 24.32 also issued under 5 U.S.C.

5582, 5583;

Section 24.36 also issued under 26 U.S.C.

6423.

§ 24.16 [Amended]

2. The third sentence of § 24.16(c) is amended by removing the "s" at the end of the word "provisions".

§ 24.18 [Amended]

3. Section 24.18(f) is amended by removing "§ 24.15" and inserting, in its place, "§ 24.16".

PART 103—AVAILABILITY OF INFORMATION

1. The authority citation for Part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 19 U.S.C. 66, 1624, 31 U.S.C. 9701.

2. All other statutory authority cited at the end of various sections in Part 103 is removed.

3. Section 103.11(a) is revised to read as follows:

§ 103.11 Specific Customs Service records subject to disclosure.

(a) *Administrative staff manuals and instructions.* Except as exempted by § 103.12, all administrative staff manuals and instructions to staff that affect any member of the public, and indexes thereto, are available for public inspection and copying in the Customs Service public reference facilities (see § 103.1), including the following:

Forms Catalog. Customs and other agency forms currently available from the Customs Service.

Legal Precedent Retrieval System. The directory is a listing by selected keywords of all classification rulings issued since early 1974 that affect a substantial volume of imports or transactions or are of general interest or importance, and of all published classification rulings issued since August 31, 1963, including classification decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The directory is maintained on microfiche and is continually updated. Duplicate microfiche are available for 15¢ each, through subscription or in individual sets. The costs of a set will depend upon the number of microfiche it contains.

Fines, Penalties, and Forfeitures Handbook. Collects in one document information relating to the total management of the fines, penalties, and forfeitures program.

Inspector Rate Book. A ready reference guide for inspection personnel. Contains an abbreviated Tariff Schedules of the United States and other reference material.

Customs Issuance System (CIS) Index. The index provides a brief description of circulars, manuals, legal rulings, decisions, and other Customs documents.

Operational Handbook of Other Agency Requirements Enforced by the U.S. Customs Service.

Customs Valuation under the Trade Agreements Act of 1979.

Fundamentals of Customs Tariff and Trade Operations Handbook. Material relating to the duties and responsibilities of import specialists: entry of merchandise, restrictions, prohibitions and other agency requirements, special trade programs, invoicing and related documentation, examination of merchandise, Customs valuation, tariff classification, liquidation, protests, and miscellaneous import specialist concerns.

4. Section 103.14(d)(1) is revised to read as follows:

§ 103.14 Information on vessel manifests and summary statistical reports.

(d) *Confidential treatment.* (1) *Inward manifest.* An importer or consignee may request confidential treatment of its name and address contained in inward

manifests, to include identifying marks and numbers. In addition, an importer or consignee may request confidential treatment of the name and address of the shipper or shippers to such importer or consignee by using the following procedure:

(i) An importer or consignee, or authorized employee, attorney or official of the importer or consignee, must submit a certification (as described in subparagraph (ii) of this paragraph) claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers which reveal the name and address of the importer or consignee. An importer or consignee may file a certification requesting confidentiality for all its shippers.

(ii) There is no prescribed format for a certification. However, the certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available. There is no requirement to provide sufficient facts to support the conclusion that the disclosure of the names and addresses would likely cause substantial harm to the competitive position of the importer or consignee.

(iii) The certification must be submitted to the Disclosure Law Branch, Regulations Control and Disclosure Law Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2325, Washington, D.C. 20229.

(iv) Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Disclosure Law Branch at least 60 days prior to the expiration of the current certification. Information so certified may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by Customs of the receipt of its certification of confidentiality.

5. Section 103.14(d)(2) (iii) and (iv) are revised to read as follows:

§ 103.14 Information on vessel manifests and summary statistical reports.

(d) *Confidential treatment.* * * *

(2) *Outward manifest.* * * *

(iii) The certification must be submitted to the Disclosure Law Branch, Regulations Control and Disclosure Law Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2325, Washington, D.C. 20229.

(iv) Each certification will be valid for a period of two (2) years from the date of its approval.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 is revised to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484.

§ 113.64 [Amended]

2. The heading to § 113.64(a), is amended by removing "Changes" and inserting, in its place, "Charges."

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for Part 134 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624.

2. All other statutory authority cited at the end of various sections in Part 134 is removed.

§ 134.33 [Amended]

3. Section 134.33 is amended by removing "Pipes, iron or steel, and pipe fittings of cast or malleable iron (except cast iron soil pipe and fittings) T.D. 71-89.", from the list of articles excepted from country of origin marking requirements.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 is revised to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subpart G also issued under 19 U.S.C. 1505

Section 141.1 also issued under 31 U.S.C. 3713

Section 141.4 also issued under 19 U.S.C. 1498

Section 141.19 also issued under 19 U.S.C. 1485, 1486

Section 141.20 also issued under 19 U.S.C. 1485, 1623

Section 141.66 also issued under 19 U.S.C. 1490, 1623

Section 141.69 also issued under 19 U.S.C. 1315

Section 141.89 also issued under 19 U.S.C. 1202 (Gen Hdnote 11), 1481

Section 141.90 also issued under 19 U.S.C. 1487

Section 141.112 also issued under 19 U.S.C. 1564

Section 141.113 also issued under 19 U.S.C. 1499, 1623

2. All other statutory authority cited at the end of various sections in Part 141 is removed.

§ 141.82 [Amended]

3. Section 141.82(d) is amended by removing "\$250", and inserting, in its

place, "\$1,000 [except for articles valued in excess of \$250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated]"

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. The authority citation for Part 143 is revised to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. All other statutory authority cited at the end of various sections in Part 143 is removed.

§ 143.21 [Amended]

3. Section 143.21(a) is amended by removing, "\$250 in value", and inserting, in its place, "\$1,000 in value [except for articles valued in excess of \$250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated]."

4. Section 143.21(b) is amended by removing, "\$250", and inserting, in its place, "\$1,000".

5. Section 143.21(c) is amended by removing, "\$250" and inserting, in its place, "\$1000". Paragraph (c) is further amended by adding the sentence, "This paragraph does not apply to shipments of articles valued in excess of \$250 classified in items from Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated."

6. Section 143.21(f) and (g) are amended by removing, "\$250", and inserting, in its place, "\$1,000".

§ 143.22 [Amended]

7. Section 143.22 is amended by removing "\$250" and inserting, in its place, "\$1,000".

§ 143.23 [Amended]

8. Section 143.23(d) is amended by removing "\$250 in value" and inserting, in its place, "\$1,000 in value [except for articles valued in excess of \$250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated]."

PART 145—MAIL IMPORTATIONS

1. The authority citation for Part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1201 [Gen. Hdnote 11]; 1624.

Section 145.4 also issued under 18 U.S.C. 545, 19 U.S.C. 1618;

Section 145.11 also issued under 19 U.S.C. 1481, 1485, 1498;

Section 145.12 also issued under 19 U.S.C. 1315, 1484, 1498;

Sections 145.22-145.23 also issued under 19 U.S.C. 1501, 1514;

Section 145.31 also issued under 19 U.S.C. 1321;

Section 145.32 also issued under 19 U.S.C. 1321, 1498;

Sections 145.35-145.38, 145.41, also issued under 19 U.S.C. 1498;

Section 145.51 also issued under 19 U.S.C. 1305;

Section 145.54 also issued under 19 U.S.C. 1618.

2. All other statutory authority cited at the end of various sections in Part 145 is removed.

§ 145.12 [Amended]

3. Section 145.12(a)(2), is amended by removing "\$250" and inserting, in its place, "\$1,000".

4. Section 143.12(a)(3) is amended by removing "\$250", both places where it appears, and inserting, in its place, "\$1,000".

5. Section 145.12(b), is amended by removing "\$250" and inserting, in its place, "\$1,000".

6. Section 145.12(c) is amended by removing "\$250" from the sub-section heading and from the paragraph, and inserting, in both places, "\$1,000".

§ 145.32 [Amended]

7. Section 145.32 is amended by removing "\$25", and inserting, in its place, "\$50", and by removing "\$40", and inserting, in its place, "\$1.00".

§ 145.35 [Amended]

8. Section 145.35 is amended by removing "\$250" and inserting, in its place, "\$1,000".

§ 145.36 [Amended]

9. Section 145.36 is amended by removing, "on Customs Form 3321" from the last sentence.

§ 145.41 [Amended]

10. Section 145.41 is amended by removing "\$250" and inserting, in its place, "\$1,000".

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for Part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1498, 1624. The provisions of this part, except for Subpart C, are also issued under 19 U.S.C. 1202 [Gen. Hdnote 11];

Section 148.21 also issued under 19 U.S.C. 1461, 1462;

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

Section 148.87 also issued under 22 U.S.C. 288.

2. All other statutory authority cited at the end of various sections in Part 148 is removed.

§ 148.77 [Amended]

3. Section 148.77(b) is amended by removing "6061" and inserting, in its place, "3299".

§ 148.87 [Amended]

4. The list in § 148.87(b) is amended by making the following changes:

(a) The references to the "Coffee Study Group, E.O. 10943, May 19, 1961" and the "Southeast Asia Treaty Organization, E.O. 10866, February 23, 1960" are removed.

(b) The first reference to the "International Telecommunications Satellite Organization (INTELSAT)—Limited privileges only, E.O. 11718, May 14, 1973" is removed.

(c) The list is further amended by inserting the following in appropriate alphabetical order:

§ 148.87 Officers and employees of, and representatives to public international organizations.

* * * * *

(b) * * *

Organization	Executive order	Date
International Food Policy Research Institute—Limited Privileges only.	12359	Apr. 22, 1982.
Multinational Force and Observers.	12359	Apr. 22, 1982.

PART 152—CLASSIFICATION AND APPRAISEMENT OF VALUE

1. The authority citation for Part 152 is revised to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624. Subpart B also issued under 19 U.S.C. 1315. Subpart C also issued under 19 U.S.C. 1503. Subpart D also issued under 19 U.S.C. 1202 [Gen. Hdnote 12].

Section 152.3 also issued under 19 U.S.C. 1499;

Sections 152.13, 152.24 also issued under 19 U.S.C. 1202 [Gen. Hdnote 7];

Sections 152.31-152.32 also issued under 19 U.S.C. 1401a

2. All other statutory authority cited at the end of various sections in Part 152 is removed.

3. Part 152 is amended in the following manner:

§ 152.105 [Amended]

In § 152.105, paragraph headings (h)(3) (a) and (b) are changed to (h)(3) (i) and (ii), respectively.

§ 152.108 [Amended]

4. Part 152 is further amended by changing the paragraph headings in § 152.108 from (1), (2), (3), (4), (5), (6), and (7) to (a), (b), (c), (d), (e), (f) and (g), respectively.

PART 162—RECORDKEEPING, INSPECTION, SEARCH AND SEIZURE

1. The authority citation for Part 162 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624.

Subpart B also issued under 19 U.S.C. 1505;

Subpart G also issued under 19 U.S.C. 1466, 1584, 1592, 1613, 1618;

Section 162.3 also issued under 19 U.S.C. 1581;

Section 162.4 also issued under 39 U.S.C. 604, 605;

Section 162.5 also issued under 19 U.S.C. 1581, 49 U.S.C. 1509.

Section 162.6 also issued under 19 U.S.C. 1461, 1467, 1496;

Section 162.7 also issued under 19 U.S.C. 482;

Section 162.21 also issued under 19 U.S.C. 482, 1581, 1582, 1602;

Section 162.22 also issued under 18 U.S.C. 546, 19 U.S.C. 1459, 1460, 1594, 1701, 1703-1708;

Section 162.32 also issued under 19 U.S.C. 1603, 1610;

Section 162.43 also issued under 19 U.S.C. 1606, 1609;

Section 162.44 also issued under 19 U.S.C. 1614;

Section 162.46 also issued under 19 U.S.C. 1609, 1611;

Section 162.47 also issued under 19 U.S.C. 1608;

Section 162.48 also issued under 19 U.S.C. 1612;

Section 162.49 also issued under 19 U.S.C. 5698;

Section 162.50 also issued under 19 U.S.C. 1611, 1705;

Section 162.61 also issued under 21 U.S.C. 592, 953, 957;

Section 162.62 also issued under 21 U.S.C. 592, 956;

Sections 162.63, 162.64 also issued under 21 U.S.C. 881, 966;

Section 162.65 also issued under 19 U.S.C. 1584, 21 U.S.C. 960, 961.

2. All other statutory authority cited at the end of various sections in Part 162 is removed.

§ 163.43 [Amended]

3. Section 162.43 is amended by removing paragraph (c).

§ 163.45 [Amended]

4. The heading to § 162.45 is amended by removing "\$10,000" and inserting, in its place, "\$100,000".

5. Section 162.45(a) is revised to read as follows:

§ 162.45 Summary forfeiture where value not over \$100,000 Property other than Schedule 1 controlled substances. Notice of seizure and sale.

(a) *Contents.* The notice required by section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intent to forfeit and sell or otherwise dispose of according to law property not exceeding \$100,000 in value, or any seized merchandise the importation of which is prohibited, or any seized vessel, vehicle or aircraft that was used to import, export, transport, or store any controlled substance, shall:

(1) Describe the property seized and in the case of motor vehicles, specify the motor and serial numbers;

(2) State the time, cause, and place of seizure;

(3) State that any person desiring to claim property must appear at a designated place and file with the district director within 20 days from the date of first publication of the notice a claim to such property and a bond in the sum of \$2,500 or 10% of the value of the claimed property, whichever is lower, but not less than \$250, in default of which the property will be disposed of in accordance with the law; and

(4) State the name and place of residence of the person to whom any vessel or merchandise seized for forfeiture under the navigation laws belongs or is consigned, if that information is known to the district director.

* * * * *

§ 162.45 [Amended]

5. Section 162.45(c) is amended by removing "\$10,000" and inserting, in its place, "\$100,000 (excluding merchandise, the importation of which is prohibited, and vessels, vehicles or aircraft used to import, export, transport or store and controlled substance, for which there is no value limit)".

§ 162.46 [Amended]

6. Section 162.46 is amended by removing "\$10,000" from the section heading and inserting, in its place, "\$100,000".

§ 162.47 [Amended]

7. Section 162.47(a) is amended in the following manner:

(a) The figure "\$10,000" is removed and "\$100,000" is inserted in its place.

(b) Immediately after the word "value", insert "(however there is no

limit in value of merchandise, the importation of which is prohibited, or in the value of vessels, vehicles or aircraft used to import, export, transport, or store any controlled substance, that may be seized and forfeited)."

8. Section 162.47(b) is amended by removing "\$250" and inserting, in its place, "\$2,500 or 10% of the value of the claimed property, whichever is lower, but not less than \$250."

§ 146.48 [Amended]

9. Section 162.48 is amended by removing "\$10,000" from the section heading and the text, and inserting, in those places, "\$100,000".

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The authority citation for Part 171 is revised to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

Subpart C also issued under 22 U.S.C. 401, 46 U.S.C. 320, 2107.

Section 171.44 also issued under 40 U.S.C. 304j, 304k.

2. All other statutory authority cited at the end of various sections in Part 171 is removed.

3. Section 171.12(c) is revised to read as follows:

§ 171.12 Filing of petition.

(c) *Petitions for remission of forfeitures of certain conveyances.* Petitions for remission of forfeiture of a conveyance seized in connection with the illegal importation, exportation, transportation, or storage of any amount of heroin, 5 pounds or more of cocaine, 10 pounds or more of hashish, 250 pounds or more of other controlled substances, or with the illegal importation, exportation, or transportation of firearms in a quantity clearly in excess of personal use needs, shall be filed within 30 days from the date of mailing of the notice of fine, penalty or forfeiture incurred.

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

1. The authority citation for Part 173 is revised to read as follows:

Authority: 19 U.S.C. 66, 1501, 1520, 1521, 1624.

2. All other statutory authority cited at the end of the various sections of Part 173 is removed.

3. Part 173 is amended by adding a new section, designated § 173.4a to read as follows:

§ 173.4a Correction of clerical error prior to liquidation.

Pursuant to § 520(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1520(a)(4)), the district director may, prior to liquidation of an entry, take appropriate action to correct a clerical error that resulted in the deposit or payment of excess duties, fees, charges, or exactions.

PART 191—DRAWBACK

1. The authority citation for Part 191 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1313, 1624.

Section 191.7 also issued under 19 U.S.C. 1514;

Section 191.8 also issued under 19 U.S.C. 1557;

Section 191.9 also issued under 18 U.S.C. 550;

Section 191.94 also issued under 19 U.S.C. 1309;

Sections 191.131(a), 191.133, 191.137, 191.139 also issued under 19 U.S.C. 1557;

Sections 191.162-191.166 also issued under 19 U.S.C. 81c.

2. All other statutory authority cited at the end of various sections of Part 191 is removed.

§ 191.2 [Amended]

3. Section 191.2(b) is amended by removing the period from the end of the section, and inserting, in its place, "or (j)(2)."

§ 191.4 [Amended]

4. Section 191.4(a)(9) is amended by revising the hearing to read, *Direct identification same condition drawback*, and by adding a "(1)" after 313(j) and after 1313(j) in this section.

5. Sections 191.4(a)(10), (a)(11), and (a)(12) are renumbered §§ 191.4(a)(12), (a)(13), and (a)(14), respectively.

6. Part 191 is further amended by adding new §§ 191.4(a)(10) and (a)(11) to read as follows:

§ 191.4 Types of drawback.

(a) . . .

(10) *Substitution same condition drawback.* Drawback of duties is provided for in § 313(j)(3), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(3)), on merchandise fungible with imported merchandise when exported or destroyed under Customs supervision, provided all the conditions described under § 191.141(h) are complied with.

(11) *Packaging materials.* Drawback of duties is provided for in § 313(j)(4), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(4)), on packaging material used to package or repackage merchandise exported with direct identification same condition drawback.

(19 U.S.C. 1313(j)) contains two paragraphs numbered (4). See first paragraph (4).

§ 191.12 [Amended]

7. Section 191.12 is amended by removing "19 U.S.C. 1313(l)", and inserting, in its place, "19 U.S.C. 1313(m)".

8. Part 191 is further amended by adding a new § 191.27 to read as follows:

§ 191.27 Tradeoff.

(a) *Exchanged Merchandise.* To comply with §§ 191.22(a)(ii) and 191.32(a)(3), the use of domestic merchandise taken in exchange for imported merchandise of the same kind and quality shall be treated as use of the imported merchandise if no certificate of delivery (Customs Form 7543) is issued covering the imported merchandise. This provision shall be known as tradeoff and is authorized by section 313(k), Tariff Act of 1930, as amended (19 U.S.C. 1313(k)).

(b) *Requirements.* Tradeoff must occur between two separate legal entities, but it is not necessary that the entity exchanging the imported merchandise be the importer thereof. In addition, tradeoff must be a straight tradeoff of same kind and quality merchandise, with no additional payments of any type, including additional payment in kind.

(c) *Application.* Each would-be user of tradeoff, except those operating under a general drawback contract covering substitution, must apply to the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters, for a determination of whether the imported and domestic merchandise are same kind and quality. For those users manufacturing under substitution drawback, this request should be contained in the drawback proposal. For those users manufacturing under direct identification drawback, the request should be made by a separate letter. General drawback contracts covering substitution will be revised to provide for tradeoff.

§ 191.32 [Amended]

9. Section 191.32 is amended by removing paragraph (c). Section 191.32 is further amended by redesignating paragraphs (d) as (c), and (e) as (d), respectively.

10. Section 191.141 is amended by adding a new subparagraph (h) to read as follows:

§ 191.141 Same condition drawback.

(h) *Substitution same condition drawback.* If legal person X possesses imported merchandise (the designated merchandise) during some time interval in period A (defined below) and also possesses other merchandise fungible with it (the substituted merchandise) during the same or different time interval in period A, then 99 percent of the duty paid on the designated merchandise will be refunded as drawback, provided that:

(1) The designated merchandise was in the same condition as imported either at the time of substitution, the time X used it in manufacturing, or at the time X transferred it to another person, whichever occurs first;

(2) The substituted merchandise is in the same condition when exported or destroyed under Customs supervision as was the designated merchandise when imported;

(3) X does not issue a certificate of delivery covering the designated merchandise nor a certificate of manufacture and delivery covering articles manufactured or produced therefrom; and

(4) X maintains records to establish requirements, (1), (2), and (3) of this section and also complies with all relevant requirements of §§ 191.141 (a) through (g) of this chapter.

Period A (referred to above) begins when X receives the merchandise and ends three years after the importation of said merchandise.

William von Raab,

Commissioner of Customs.

Approved: June 13, 1985.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 85-17440 Filed 7-22-85; 8:45 am]

BILLING CODE 4820-02-M

RAILROAD RETIREMENT BOARD**20 CFR Part 200****Debt Collection**

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to provide for waiver of interest, penalties, and collection costs, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess the