Provided, that members may pay interest or dividends in gold coins minted and issued by the United States Treasury pursuant to Pub. L. 99–185, 99 Stat. 1177 (1985)".

Subchapter C—Federal Savings and Loan System

PART 545—OPERATIONS

8. The authority citation for Part 545 continues to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

9. Section 545.74 is amended by removing the period at the end of paragraph (c)(5)(viii) and inserting in lieu thereof a semicolon and by adding a new paragraph (c)(5)(ix) to read as follows:

§ 545.74 Service corporations.

* * * * *

(c) * * *

(5) * * *

(ix) Purchase and sale of gold coins minted and issued by the United States Treasury pursuant to Pub. L. 99–185, 99 Stat. 1177 (1985).

* * * * *

10. Section 545.79 is revised to read as follows:

§ 545.79 Gold transactions.

No Federal association shall engage in any transaction or activity, including the payment of interest or dividends, involving gold (including gold coin) or gold related instruments or securities or pay interest or dividends in an amount of money determined in any manner related to gold: *Provided,* that Federal associations may purchase, sell, and pay interest or dividends in gold coins minted and issued by the United States Treasury pursuant to Pub. L. 99–185, 99 Stat. 1177 (1985).

PART 556—STATEMENTS OF POLICY

11. The authority citation for Part 556 continues to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 341, 96 Stat. 1505, as amended (12 U.S.C. 1701j–3); secs. 402–403, 406–407, 48 Stat. 1256–1257, 1259–1260, as amended (12 U.S.C. 1725–1726, 1729–1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

12. Section 556.7 is revised to read as follows:

§ 556.7 Service corporation involvement with gold or gold related transactions.

Section 545.74 authorizes Federal associations to invest in service corporations engaging in certain preapproved activities and any other activities the Board approves upon application. Because the Board will not approve applications to engage in transactions or activities involving gold (including gold coin) or gold related instruments or securities, Federal associations should not invest or maintain an investment in a service corporation engaging in such transactions or activities except as provided for in § 545.74(c)(5)(ix).

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 571—STATEMENTS OF POLICY

13. The authority citation for Part 571 continues to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464); sec. 409, 94 Stat. 160; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

14. Section 571.10 is revised to read as follows:

§ 571.10 Gold and gold-related transactions.

The authority of state-chartered insured institutions and their service corporations to engage in transactions and activities involving gold (including gold coin) or gold related instruments or securities, including buying, holding, selling, or otherwise dealing with gold or gold related instruments or securities, is primarily a matter of state law. However, the Corporation's supervisory and examining personnel will carefully scrutinize any such transactions and activities by insured institutions or their service corporations. The Corporation will regulate or prohibit any such transaction or activity if it determines that such transaction or activity constitutes an unsafe or unsound practice or is otherwise inconsistent with the purposes of Title IV of the National Housing Act, 12 U.S.C. 1724–30: *Provided,* that to the extent that they have independent legal authority to do so, insured institutions may purchase, sell, and pay interest or dividends in, and their service corporations may purchase and sell, gold coins minted and issued by the United States Treasury pursuant to Pub. L. 99–185, 99 Stat. 1177 (1985), and engage in activities reasonably incident thereto.

Subchapter F—Regulations for Savings and Loan Holding Companies

PART 584—REGULATED ACTIVITIES

15. The authority citation for Part 584 is revised to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

16. Section 584.2–1 is amended by deleting the word "and" after the semicolon in paragraph (b)(9), by deleting the period and inserting in lieu thereof "; and" in paragraph (b)(10), and by adding a new paragraph (b)(11) to read as follows:

§ 584.2 Services and activities of multiple savings and loan holding companies.

* * * * *

(b) * * *

(11) Purchase and sale of gold coins minted and issued by the United States Treasury pursuant to Pub. L. 99–185, 99 Stat. 1177 (1985), and activities reasonably incident thereto.

* * * * *

17. Part 584 is amended by removing the authority citations located at the ends of the applicable sections of the part.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–22225 Filed 9–30–86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–167–AD; Amdt. 39–5433]

Airworthiness Directives; DeHavilland Aircraft of Canada, Ltd., Model DHC–8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all known persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of DeHavilland Model DHC–8 series airplanes by individual

telegrams. This AD requires the isolation of the main landing gear actuation hydraulics by complying with a revised flight manual procedure for takeoff, landing, and while on the ground.

DATES: Effective October 20, 1986.

This AD was effective earlier to all recipients of telegraphic AD T86-16-51, dated August 15, 1976. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from DeHavilland Aircraft of Canada, Ltd., Garrett Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis or Mr. W. White, Systems Branch, ANE-173, FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: On August 18, 1986, the FAA issued telegraphic AD T86-16-51, applicable to DeHavilland Model DHC-8 series airplanes, which requires a revised airplane flight manual (AFM) procedure to isolate the main landing gear actuation hydraulics system during takeoff, landing, and while on the ground. This action was prompted by two incidents in which there was an uncommanded retraction of the right main landing gear (MLG). This situation, if not corrected, could result in extensive damage to the airplane and possible injury to passengers. The revised operating procedure required by this AD is necessary to preclude a hazardous condition, which may result in collapse of the main landing gear during takeoff, landing, or taxiing; operators are required to continue operating under these revised procedures until a certain modification to the landing gear system is incorporated.

The Canadian Air Transport Administration, which is the airworthiness authority for Canada, has also issued a telegraphic airworthiness directive, CF-86-13, on this subject.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration had determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 29, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 or Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

DeHavilland: Applies to DeHavilland Model DHC-8 airplanes, certificated in any category, serial numbers 003, 005, and subsequent. Compliance is required before further flight, unless previously accomplished.

To preclude the uncommanded retraction of the main landing gear, accomplish the following:

A. Insert a copy of this AD in the Airplane Flight Manual (AFM) and advise all flight crew members. For takeoff, landing, and while on the ground, isolate the main landing gear actuation hydraulics by complying with the following revised flight manual procedures:

1. Operating Limitations

(A) Nosewheel steering switch must be selected OFF.

(B) Takeoff or landing in cross winds exceeding 20 knots is not permitted.

Note.—Information presented in Supplement 12 of the Airplane Flight Manual (Operation with Inoperative Nose Wheel Steering) is in error and will be amended in the next AFM revision.

2. Normal Operating Procedures

—Flight Compartment Check—POWER ON.
—(ADD) Landing Gear Selector Lever—DOWN.
Check 3 green lights ON.
All door and gear unlocked lights OUT.
Selector level light OUT.
—Landing Gear Inhibit Switch—INHIBIT.
—Landing Gear Alternate Release Door—OPEN FULLY.
—Landing Gear Alternate Extension Door—OPEN FULLY.
—Hydraulic Pump Handle—INSERT IN HAND PUMP SOCKET AND OPERATE UNTIL HAND PUMP MOVEMENT BECOMES STIFF.
—Hydraulic Pump Handle—STOW.

Pre-taxi Checks

11. (CHANGE) Nosewheel Steering Switch—OFF. Steer the airplane on the ground by means of differential braking and power level adjustment.

After Takeoff

1. (CHANGE) Upon achieving positive rate of climb:

—Landing Gear Alternate Release and Landing Gear Alternate Extentsion Doors—CLOSE FULLY.
—Landing Gear Inhibit Switch—NORM.
—Landing Gear Selector Lever—UP. Check all gear and door lights and gear selector lever light OUT.

Note.—Should Landing Gear Selector Lever be selected UP prior to closing Landing Gear Alternate Release and Landing Gear Alternate Extension Doors, and prior to selecting Landing Gear Inhibit Switch to NORMAL, reselect Landing Gear Selector Lever DOWN and accomplish gear retraction as per revised procedure.

Note.—Landing Gear Alternate Release and Landing Gear Alternate Extension Doors and Landing Gear Inhibit Switch are not within reach of captain when secured in left-hand seat in normal flying position.

Approach

1. (CHANGE) Landing Gear Selector Lever—DOWN.

—Check 3 green lights ON.
—All door and gear unlocked lights OUT.
—Selector lever light OUT.
—Landing Gear Inhibit Switch—INHIBIT.
—Landing Gear Alternate Release Door—OPEN FULLY.
—Landing Gear Alternate Extension—OPEN FULLY.
—Hydraulic Pump Handle—INSERT IN HAND PUMP SOCKET AND OPERATE UNTIL HAND PUMP MOVEMENT BECOMES STIFF.
—Hydraulic Pump Handle—STOW.
—(ADD) Nosewheel Steering Switch—OFF.

Go-Around From Final Approach

5. (CHANGE) Upon achieving positive rate of climb:

—Landing Gear Alternate Release and Landing Gear Alternate Extension Doors—CLOSE FULLY.

—Landing Gear Inhibit Switch—NORMAL.
—Landing Gear Selector Lever—UP. Check all gear and door lights and gear selector lever light OUT.

3. Emergency Operating Procedures

Engine Failure or Fire After V_1

2. (CHANGE) Gear retraction procedure as above for go-round from final approach.

One Engine Inoperative Approach and Landing

1. (CHANGE) Landing Gear:
If No. 1 Engine inoperative:
—Gear extension procedure as above for approach.
If No. 2. Engine inoperative:
—Airspeed—140 KT IAS MAXIMUM.
—Landing Gear Inhibit Switch—INHIBIT.
—Landing Gear Selector Lever—DOWN.
—Landing Gear Alternate Release Door—OPEN FULLY.
—Main Landing Gear Release Handle—PULL FULLY DOWN.
—Landing Gear Alternate Extension Door—OPEN FULLY. Insert pump handle in hand socket and operate until main landing gear locks down (left and right green lights ON, and left door and right door amber lights ON) and handpump movement becomes stiff.
—Nose Gear Alternate Release Handle—PULL FULLY UP. Check nose green light and nose door amber light on. If any of the gear locked down (green) lights fail to illuminate:
—Gear locked down indicator light switch—ON. Check for illumination of appropriate gear down lock alternate light.
—Anti-skid Switch—TEST.
—PTU Manual Switch—PTU MANUAL.

One Engine Inoperative Approach Climb (Overshoot)

3. (CHANGE) Gear retraction procedure as above for go-around from final approach.

4. Performance Data

(A) Takeoff distance required—INCREASE BY TWO PERCENT.
(B) Takeoff run required—INCREASE BY TWO PERCENT.
(C) Accelerate-stop distance required—INCREASE BY TWO PERCENT.

B. No later than November 1, 1986, incorporate DHC Modification 8/0567 in accordance with DHC Service Bulletin 8-32-35, dated July 31, 1986. Remove the copy of this directive from the AFM.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to DeHavilland Aircraft of Canada, Ltd., Garrett Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment becomes effective October 20, 1986, as to all persons, except those persons to whom it was made immediately effective by telegraphic AD T86-16-51, issued August 15, 1986.

Issued in Seattle, Washington, on September 24, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR. Doc. 86-22117 Filed 9-30-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 24 and 113

[T.D. 86-178]

Interest Charges on Certain Delinquent Accounts

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to establish interest charges for the late payment of supplemental duty bills (bills for additional duties ascertained upon liquidation or reliquidation), reimbursable services, and miscellaneous bills issued by Customs to organizations outside the U.S. Government, including sureties.

Presently, there is no provision in the Customs Regulations to charge interest for late payments of supplemental duties, reimbursable services, and miscellaneous bills. However, interest charges for late payments of supplemental duties is now mandated by law. Customs and the Treasury Department believe that charging interest on all delinquent accounts will provide an incentive for prompt payment and, if accounts are not paid timely, provide for reimbursement of interest costs resulting from Government borrowing.

EFFECTIVE DATES:

For amendments: October 31, 1986.

For interest charges:

(1) *November 29, 1984:* By statute, for liquidations or reliquidations on or after this date upon which increased or additional duties are due.

(2) *November 1, 1986:* For overdue bills for reimbursable services and miscellaneous amounts, for all actions initially billed on or after October 1, 1986.

(3) *October 30, 1984:* By statute, for all refunds of amounts paid as increased or additional duties which had been determined to be due upon liquidation or reliquidation.

(4) *November 1, 1986:* For refunds of amounts of interest that have been paid by parties-in-interest on overpayments of reimbursable services and miscellaneous amounts.

FOR FURTHER INFORMATION CONTACT: Accounting Aspects: Robert B. Hamilton, Jr., National Finance Center, (317-298-1308); Bond Aspects: William Rosoff, Carriers, Drawback and Bonds Division, (202-566-5856); Legal Aspects: Arthur I. Rettinger, Office of the Chief Counsel, (202-566-2482); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

In a report from the Comptroller General to Congress dated August 21, 1978, the General Accounting Office recommended that Customs charge interest on all supplemental duty accounts 30 days past due as part of an effort for the U.S. Government to maximize its use of Customs collections to decrease Government borrowings. That report states that in four Customs Regions (Boston, Chicago, Los Angeles, and New York), accounts receivable for supplemental duties averaged $8.5 million each month from April 1976 to March 1977 and that approximately 38 percent of that amount was over 90 days past due.

Present Customs collection policy is to (1) issue a bill which indicates that it is due and payable, (2) pursue collection in accordance with Federal claims collection standards, and (3) inasmuch as a surety is jointly liable, to make a demand on the surety and the principal for payment if the bill remains unpaid. Importers are required to post a bond to cover each Customs entry to guarantee the payment of increased or additional duties and satisfy other Customs requirements. Enactment of Pub. L. 98-573 required Customs to charge interest on delinquent supplemental duty bills, and interest is currently assessed in accordance with the Act.

Currently, there is no provision in the Customs Regulations for collection of an interest charge exceeding the principal amount, regardless of the time period of delinquency or additional administrative costs to the U.S. Government incurred as the result of special collection efforts. Further, it is necessary to amend the Customs Regulations to address enactment of Pub. L. 98-573, and provide for interest assessment on delinquent reimbursable services and miscellaneous bills. In Fiscal Year 1979, for instance, the percentage of the number of Customs supplemental duty and reimbursable service bills issued during that fiscal year and paid within 30 days was 57 percent. Another 30 percent of these bills were paid within 60 days, and only the remaining 13 percent of the bills were paid more than 60 days after the date of the bill. Customs and the Treasury Department believe that charging interest on delinquent accounts will provide an incentive for prompt payment and, if accounts are not paid timely, provide for reimbursement of interest costs resulting from unnecessary Government borrowing. Customs believes that a majority of those bills which are now paid within 31 and 60 days after the date of billing will be paid within 30 days with the added incentive of interest charges. This means that approximately 13 percent of the bills issued would result in action by Customs to charge interest.

Notice of Proposed Rulemaking

In this regard, on March 10, 1983, Customs published a notice in the **Federal Register** (48 FR 10077), proposing to amend Parts 24 and 113, Customs Regulations (19 CFR Parts 24, 113), to provide that interest charges would apply to late payments of supplemental duty bills (bills for additional duties ascertained upon liquidation or reliquidation), reimbursable services, (such as provided for in §§ 24.16 and 24.17, Customs Regulations (19 CFR 24.16, 24.17)), and miscellaneous bills (bills other than duties, taxes, reimbursable services, liquidated damages, fines, and penalties) issued by Customs to organizations outside the U.S. Government, including sureties.

The notice stated that if payment for an above-mentioned bill was not received by Customs within 25 days after the due date of the bill, interest charges would be assessed upon the delinquent principal amount of the bill, and calculated from the due date of the bill. The applicable interest rate was to appear on the bill. Interest on an overdue bill would have been assessed on the delinquent principal amount by 30-day periods. The full 30-day interest charge would have been assessed for each additional 30-day period or portion thereof that payment is delayed. The rate of interest was to be determined pursuant to the Debt Collection Act of 1982, Pub. L. 97-365. The applicable interest rate would have been available from any Customs regional financial management office after it is published.

The principal (i.e., the importer of record or party-in-interest) and the surety, would have been individually issued bills for interest and evey 30 days thereafter, of the following elements: (i) The amount due, (ii) the accrual of interest charges if payment is not received within 25 days after the due date of the bill (iii) the applicable interest rate, and (iv) the joint and several liability of the principal and the surety.

Commenters had until May 9, 1983, to submit comments. Based upon the 20 comments received in response to the notice and Customs own initiative, changes have been made to the proposal. These changes also reflect T.D. 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), which implemented two provisions of the Trade and Tariff Act of 1984 (Pub. L. 98-573) relating to calculation of interest on overdue accounts and refunds. An analysis of the comments and discussion of the changes follow.

Discussion of Major Comments

Comment: The proposal to collect interest charges on delinquent accounts is not authorized under current law and should be commenced only after specific authorization by Congress. A former Assistant Secretary of the Treasury (Enforcement and Operations) is quoted in the August 21, 1978, Report by the Comptroller General that Customs has not been granted legislative authority to charge interest and that it would not be in the best interests of the Government to assess interest because interest would also have to be paid on refunds from protests, reliquidations, and other actions. Therefore, it is concluded that legislation is required.

It is further stated that the fact that the Government has been awarded interest in court proceedings to collect duties cannot clothe administrative collection of interest with the force of law.

The proposal is one-sided and inequitable in that it provides no mechanism for the payment of interest to an importer on duty refunds. It is proposed that Customs pay interest on all accelerated drawback payments due when refund is not made timely.

Analysis: After this comment was submitted, the President signed the Trade and Tariff Act of 1984 on October 30, 1984. By T.D. 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), Customs implemented two provisions of the Act to provide that interest on applicable overpayments or underpayments of increased or additional Customs duties shall be in accordance with the Internal Revenue Code rate established in 26 U.S.C. 6621 and 6622. This determination covers antidumping and countervailing duty payments as well as increased or additional duties determined to be due on a liquidation or reliquidation. In addition, it was determined that a uniform interest payment system should be established and that refunds pursuant to a court determination and payable under 28 U.S.C. 2644, and interest on overpayments and underpayments of estimated excise taxes determined at liquidation, shall be at the rate(s) prescribed under 26 U.S.C. 6621 and 6622.

Furthermore, section 623(b)(1), Tariff Act of 1930, as amended (19 U.S.C. 1623(b)(1)), clearly gives the Secretary of the Treasury statutory authority to prescribe the conditions of bonds. Section 623(d), Tariff Act of 1930, as amended (19 U.S.C. 1623(d)), provides that no condition in a Customs bond shall be held invalid on the ground that it is not specified in law.

Therefore, not only is this amendment equitable, it is also enacted pursuant to specific legislative authority.

Comment: Relating to bills for supplemental duties, adoption of the final rule will encourage a flood of protests, in large measure not intented to challenge the basis for the liquidated duty increase, but merely to stay the collection of interest. Any attempt by Customs to collect interest after the "25th day following liquidation" would subsequently be cancelled and negated by the filing of protest.

Analysis: It appears the commenters misread the proposal. Customs did not propose to collect interest after the "25th day following liquidation," but 25 days after the "due date" of the bill. However, pursuant to Pub. L. 98-573 and T.D. 85-93, the due date of the bill for supplemental duties, as provided in § 24.3(e), Customs Regulations (19 CFR 24.3(e)), shall be 15 days from the date of liquidation or reliquidation and if not paid within 30 days after this date (the 45th day) shall be considered delinquent and bear interest from the due date (15th day after liquidation or reliquidation).

Comment: The Debt Collection Act of 1982 provides that Customs is not covered by major portions of that law because, except as noted therein, the law does not apply to claims or indebtedness arising under the "tariff laws of the United States." Furthermore, it is suggested the rate of interest on a bill be changed every 3 months while the bill is delinquent rather than remain the same.

Analysis: The proposal advised that notwithstanding the above exclusion, because the Government also would be recovering similar costs in matters relating to Customs, consideration was being given to the use of the applicable percentage rate of interest based upon the current value of funds to the Treasury, in accordance with the Debt Collection Act.

However, Customs has reconsidered its position and determined not to use the rate of interest under the Debt Collection Act. Rather, it is appropriate that prejudgement interest be calculated at the same rate as provided for in 28 U.S.C. 2644 since it is that amount which Congress determined would compensate an importer for the loss of use of its money during a portion of the period in which the Government has the use of the money. In 28 U.S.C. 2644 it provides that interest shall be at an annual rate established under section 6621 of the Internal Revenue Code of 1954 (as modified by section 6622 (26 U.S.C. 6621 and 6622)). This is the rate which Customs will use. (see *United States v. Harold Goodman*, Slip Op. 83–92, Court No. 81–9–01150).

The notice proposed that the same percentage rate of interest applied to an overdue bill would remain in effect for that bill until complete payment is received. Customs has revised the proposal and determined that the percentage rate of interest will be adjusted based upon the semiannual determinations under section 6621 and be compounded daily in accordance with 26 U.S.C. 6622 for any period of time that such sums of the bill are outstanding.

Comment: Section 580 of the Tariff Act of 1930 (19 U.S.C. 580), imposes "interest", not an "exaction". It is inequitable to impose a greater burden upon the surety than upon the principal. The rule should state whether the 6 percent amount assessed against a surety is in addition to, or is included within, the interest charged, if any, against the principal. Customs is without authority to adopt regulations which are inconsistent with the Congressional scheme limiting interest at a 6 percent rate on unpaid debts which are the subject of collection actions.

Analysis: The Act of March 2, 1799, C. 22, Section 65, 1 Stat. 676 (19 U.S.C. 580), is applicable to suits brought to the Government upon all bonds for the recovery of duties. The importer of record is liable for the principal amount of the debt (duty) and interest which is assessed upon the late payment of that principal amount. A surety bears the same liability. If Customs must sue the debtor under a bond, it is entitled to recover the principal amount of the debt, plus interest assessed for the late payment, plus an additional amount of 6 percent assessed under 19 U.S.C. 580.

We believe 19 U.S.C. 580 is applicable only against delinquents where the Government must pursue collection through judicial action. Such action will be necessary under very limited circumstances. Most cases will not require use of the judicial process.

Comment: Charging interest should be made by regulation with no change in the bond form (no bond rider), or bond forms should be amended upon renewal to incorporate the interest provision.

Analysis: This comment has merit. The substance of the proposed bond rider on interest charges has been incorporated into the final rule relating to the bond structure which was published in the **Federal Register** as T.D. 84–213 on October 19, 1984 (49 FR 41152). Sections 113.62, 113.64 and 113.73, Customs Regulations (19 CFR 113.62, 113.64, 113.73), specify the agreement to pay charges demanded by Customs as a condition for basis importation and entry bonds, respectively. This document makes those same conforming changes to §§ 113.63 and 113.65, Customs Regulations (19 CFR 113.65). Customs has determined the word "charges" appearing in these sections to include interest charges for the late payment of supplemental duty bills (bills for additional duties ascertained upon liquidation or reliquidation), reimbursable services, and miscellaneous bills issued by Customs to organizations outside the U.S. Government, including sureties.

Comment: Customs should obtain from bonding companies their proposed premiums for the new bond provision and publish this information in the **Federal Register** requesting comments.

Analysis: This suggestion cannot be adopted because Customs lacks authority to do so.

Comment: This proposal to charge interest of delinquent bills should be compatible with the Customs proposal relating to the new bond structure project published in the **Federal Register** on March 15, 1983 (see 48 FR 11032).

Analysis: This comment has merit. As noted, the substance of the proposed bond rider on interest charges has been incorporated into the final rule relating to the bond structure which was published in the **Federal Register** as T.D. 84–213 on October 19, 1984 (49 FR 41152).

Comment: The principal on the bond is the primary obligor for the payment of monies due Customs and the surety is secondarily liable.

Analysis: This is incorrect. Customs Bonds make principals and sureties joint obligors. In this regard, see *U.S. v. Gissel*, 353, F. Supp. 768 (S.D. Tex. 1873) (T.D. 73–86); aff'd 493 F. 2d. 27 (5th Cir. 1974); cert. den. 955 Sup. Ct. 332, 419 U.S. 1012.

Comment: The language of the rider to be attached to applicable bonds uses the term "late charge." The appropriate terminology should be "interest."

Analysis: As noted, there is no bond rider. The new bonds provide for interest under the term "late charges".

Comment: By T.D. 82–204 published in the **Federal Register** on November 1, 1982 (47 FR 49355), an annual fee was instituted for reimbursement of costs of Customs supervision of warehouses. If the annual fee is not paid timely, liquidated damages will be assessed. Will interest be charged on the late payment of the annual fee?

Analysis: Provisions governing this fee are contained in §§ 19.2(a) and 19.5, Customs Regulations, rather than §§ 24.16 and 24.17, Customs Regulations, relating to reimbursable and overtime services. Although there is a billing system for the reimbursable services provided in §§ 24.16 and 24.17, there is no billing system for the annual warehouse fee. As no bills are issued to collect annual warehouse fees, no interest will be assessed at this time.

Comment: Interest charges should be assessed upon the late payment of liquidated damages, fines, and penalties. There should be a provision for extending the due date on liquidated damages, fines, or penalties that may be under appeal or further review.

Analysis: Customs does not agree. As stated in the proposal, miscellaneous bills do not include liquidated damages, fines, and penalties.

Comment: Bills for reimbursable services and miscellaneous amounts are due and payable upon receipt in accordance with § 24.3(e), Customs Regulations. Under the Proposed rule, interest would accrue on those bills which are not paid within 25 days after that due date. However, Customs would not know when a bill is due because, under existing procedures, only the debtor will know when the bill is received. It is suggested that Customs either provide a longer initial period before imposing interest (*e.g.*, 45 days) or provide a clear opportunity for the importer to prove that receipt of the bill in question was delayed and that interest is not owed. It also is suggested that the due date be made more specific by marking that date on the bill and by clearly identifying it.

Analysis: Customs agrees that, as proposed, it would not know when bills for reimbursable services and miscellaneous amounts are received by the debtor. Therefore, Customs has made extensive changes to the proposal. For those bills, if payment is not received by Customs on or before the "late payment date" specified on the bill, interest charges will be assessed upon the delinquent principal amount of the bill. The late payment date is the date 30 calendar days after the "interest computation date." The interest computation date is the date from which interest is calculated and is initially the "bill date" appearing on the bill.

Pursuant to section 210 of the Trade and Tariff Act of 1984, for bills for supplemental duties, (additional duties assessed upon liquidation or reliquidation) the principal amount of the bill shall be due 15 days from the date of liquidation or reliquidation and if not paid within 30 days after this date (the 45th day) shall be considered delinquent and bear interest from the due date (15th day after liquidation or reliquidation).

No interest will be assessed on bills for reimbursable services and miscellaneous amounts if Customs receives payment on or before the late payment date. To ensure processing within 30 days after the interest computation date (so that no interest will be assessed) it is essential that payment is received by Customs on or before the late payment date. No interest will be charged on bills for supplemental duties if Customs receives payment on or before the 45th day after liquidation or reliquidation.

This document amends § 24.3(e) to provide that except for a bill for supplemental duties, a bill for duties, taxes, or other charges is due and payable on the "bill date" appearing on the bill, rather than upon receipt thereof by the debtor.

This change is necessary because, as the commenters observe, Customs does not know exactly when a bill is received by a debtor. Moreover, it is Customs practice to mail a reimbursable service or miscellaneous bill before the "bill date." Therefore, in the usual situation, a party will receive a bill on or before the bill date. Customs notes that a debt for a reimbursable or miscellaneous service is incurred at the time of the action giving rise to such bill (*e.g.*,) when a reimbursable service was performed by a Customs officer).

Comment: Currently, there is no mechanism for Customs to remove bills for supplemental duties off the collection process when a protest is filed. An importer and the surety continue to get "dunned" by Customs. Under the current proposal, the importer would be faced with interest on the increased duty billing. It is suggested that disputed items be placed under a different system. The rule should provide that the automated billing cycle and resulting interest charges are automatically suspended whenever such bills are questioned or disputed.

Analysis: The billing system under development by Customs is designed to take into consideration entries under protest, as well as adjustments that are necessary due to improper billing addresses or other administrative errors. Under the terms of section 210 of Pub. L. 98-573 the bill is due and payable 15 days from the date of liquidation or reliquidation, whether or not a protest has been filed. Accordingly, a party will continue to receive a bill for supplemental duties from Customs even though a protest has been filed. Interest will be assessed if payment is not received by Customs within 30 calendar days after the due date for supplemental duty bills issued on or after November 29, 1984.

Comment: Because of the billing method used by Customs, it is impossible to pay numerous bills within the time frame specified in the new proposal. A bill may be mailed to a different address of the same business entity without the envelope indicating that it contains a bill, or it may be directed to someone other than the person authorizing the service. Bills are not always properly identified as to the services being charged, the person's name authorizing the service, or when or where the service was performed. Bills may be in error. If bills (or substantiating documentation) are not timely received, will the interest charge still be due or be cancelled with proof of untimely receipt? The regulations should provide administrative relief from payment of interest charges if delays resulted, at least partially, due to errors by Customs personnel.

Analysis: The Customs bill is used to collect amounts owed the Government. In the case of bills issued for amounts owed other than for supplemental duties, the party-in-interest is usually aware of the Customs billing schedule and the purpose for issuance of the bill. Bills for amounts owed as a result of the performance of a reimbursable service by a Customs official are issued approximately 2-3 weeks following actual performance. Requests for the service are made specifically by the party-in-interest receiving the service. The billing package of miscellaneous amounts received by the debtor contains the background information explaining the nature of the charge or provides a "Refer Inquiry To" name and address where the basis of the charge may be obtained. We believe that the time periods provided are sufficient for payment of Customs bills.

It is noted that the importer record number data provided by the importer/broker/party-in-interest is the basis for the Customs name and address file. If the legal provisions concerning the due date for entries under protest change, or verified administrative billing errors have occurred, the Customs billing system will be adjusted using an on-line data processing adjustment capability to update the accounts receivable and invoice files accordingly. Customs will make every effort to minimize any unnecessary administrative expense in a businesslike fashion similar to the usual private and banking interest assessment practices. The Customs bill designates a "Send Payment to" address and requests for administrative adjustments due to billing errors may also be sent to this address. Customs officials have the authority to make adjustments to interest amounts when there is a Customs billing error.

Comment: Interest rates should be published in the Customs Bulletin each quarter. Having to call a Customs regional office should not be necessary.

Analysis: The Customs bill will show the current interest rate in effect. In addition, as stated in T.D. 85-93, the current semiannual interest rate may be obtained from the IRS or the Customs National Finance Center, Indianapolis, Indiana, at any time, and Customs will also publish the current interest rate in the Customs Bulletin and **Federal Register** on a semiannual basis for the convenience of the importing public and Customs personnel.

Comment: Simultaneous billing of principal and surety will decrease collection efficiency. Sureties will begin immediate collection action against all importers instead of the truly delinquent debtor. Importers will receive two bills practically simultaneously: One bill from Customs and one bill from the surety. By forcing the surety to expand its collection activities over a substantially larger base, there will be a corresponding loss of collection efficiency.

Analysis: Customs has determined not to bill the principal and surety simultaneously at the time of the initial billing as proposed. However, upon the written request of a surety, Customs will provide a surety a notice containing billing information at the time of the initial billing to its principal. In addition to such notice, if any sureties will receive notice of the principal amount owed, any interest accuring, and other pertinent information on the monthly "Formal Demand on Surety for Payment of Delinquent Accounts Due" issued to sureties. This monthly notification to sureties will be issued for delinquent bills more than 30 days past due (60 days from bill due date). Surety demand notices will be issued to sureties monthly until the account is paid or otherwise closed.

Comment: It is suggested that no interest be assessed against a surety until Customs has provided a copy of the bond and entry in support of its claim. It is also suggested that the bill include the name and address of the principal, and name and address or code of the customs broker. The regulations should provide for placing the delinquent importer on the sanction list and withdrawing immediate delivery privileges.

Analysis: As previously stated, Customs bonds make principals and sureties joint obligors. In addition, the Customs bond revision, T.D. 84–213, provides for the joint and several liability of the principal and surety for interest charges for specified bills if such bills are not paid timely. Customs will continue to provide copies of entries and bonds as it is determined to be necessary. However, whether or not Customs provides such documents does not affect the liability of a surety on the surety's bond for the amount owed by the principal.

The surety will be notified of the available name and address of the principal on the "Formal Demand on Surety for Payment of Delinquent Amounts Due" and when the bill is issued if the surety desires such notification. Efforts to improve the availability of data elements, including broker's name and address, or code, will be considered during future improvements to existing data processing systems.

Customs will continue to use the importer sanction list as judiciously as possible. However, charging interest is necessary to permit the Government to recover its costs to borrow funds.

Comments: The effective rates of interest under the proposed regulations are unreasonable and to a great extent arbitrary because the interest would be charged for full 30-day periods. It is suggested either that interest be charged only for the time period of late payment, or that interest be calculated and charged in smaller time increments, (e.g., 10 days).

Analysis: Customs disagrees. It has been determined that the charge will only be for those payments already in arrears. In fact, no interest will be charged for the period in which payment is actually made.

Related Court Decision

The U.S. Court of International Trade in *Heraeus-Amersil, Inc., V. United States*, 515 F. Supp. 770 (1981), held that any increased or additional duties determined to be due upon a liquidation or reliquidation are not due and payable at that time, but rather at the time of filing of a court action, or at the expiration of the statute of limitations, if no action is filed. In *United States* v. *Heraeus-Amersil, Inc.*, Appeal No. 81–19 (February 18, 1982), the U.S. Court of Customs and Patent Appeals affirmed this decision. In light of this holding, Customs published a final rule document in the **Federal Register** (T.D. 83–14, 48 FR 1186, January 11, 1983) amending § 24.3(e), Customs Regulations (19 CFR 24.3(e)), to clarify the due date of Customs bills for supplemental duties. However, section 210 of the Trade and Tariff Act of 1984 (Pub. L. 98–573) overturned the decision in *Heraeus-Amersil*. Accordingly, § 24.3(e) is being amended to reflect these changes.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that the rule will not have a significant economic impact on a substantial number of small entities. The large majority of delinquent bills outstanding tend to be from large importers, not small importers and other small entities. Indeed, neither small nor large entities are likely to be affected unless they are delinquent in their payments.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal authors of this document were Charles D. Ressin and Glen E. Vereb, 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

19 CFR Part 24

Customs duties and inspection, Imports, Accounting.

19 CFR Part 113

Customs duties and inspection, Imports, Surety bonds.

Amendments to the Regulations

Parts 24 and 113 Customs Regulations (19 CFR Parts 24, 113), are amended as set forth below.

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:

§ 24.1 also issued under 19 U.S.C. 197, 198, 1648;

§ 24.3 also issued under 19 U.S.C. 1505, 1520;

§ 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007, 5054, 5061, 7805;

§ 24.11 also issued under 19 U.S.C. 1485(d);

§ 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 927;

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

§ 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 2111, 2112;

§ 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;

§ 24.32 also issued under 19 U.S.C. 5582, 5583;

§ 24.36 also issued under 19 U.S.C. 6423.

2. Part 24 is amended by adding a new § 24.3a after § 24.3 to read as follows:

§ 24.3a Interest charges on certain bills; notice to principal and surety.

(a) *Due date of Customs bills.* Customs bills for Supplemental duties (additional duties assessed upon liquidation or reliquidation), reimbursable services (such as provided for in §§ 24.16 and 24.17), and miscellaneous amounts (bills other than duties, taxes, reimbursable services, liquidated damages, fines, and penalties) shall be due as provided for in § 24.3(e).

(b) *Assessment of interest charges*—(1) *Bills for reimbursable services and miscellaneous amounts.* If payment is not received by Customs on or before the late payment date appearing on the bill, interest charges will be assessed upon the delinquent principal amount of the bill. The late payment date is the date 30 calendar days after the interest computation date. The interest computation date is the date from which interest is calculated and is initially the bill date.

(2) *Bills for supplemental duties.* The due date for increased or additional duties, determined to be due upon a liquidation or reliquidation, is 15 days from the date of such liquidation or reliquidation. If such duties are not paid within 30 days after their due date (the

45th day), they shall be considered delinquent and bear interest from the due date.

(c) *Interest rate and applicability.* (1) The percentage rate of interest to be charged on such bills will be based upon the semiannual rate(s) established under sections 6621 and 6622 of the Internal Revenue Code of 1954 (26 U.S.C. 6621, 6622). The current rate of interest will appear on the Customs bill and may be obtained from the IRS or the Customs National Finance Center, Indianapolis, Indiana. Customs will also publish the current interest rate in the Customs Bulletin and Federal Register on a semiannual basis.

(2) The percentage rate of interest applied to an overdue bill will be adjusted as necessary to reflect any change in the annual rate of interest.

(3) Interest on overdue bills will be assessed on the delinguent principal amount by 30-day periods. No interest charge will be assessed for the 30-day period in which the payment is actually received at the "Send Payment To" location designated on the bill.

(4) In the case of any late payment, the payment received will first be applied to the interest charge on the delinquent principal amount and then to payment of the delinquent principal amount.

(5) The date to be used in crediting the payment is the date on which the payment is received by Customs.

(d) *Notice.*—(1) *Principal.* The principal shall be notified at the time of the initial billing, and every 30 days after the due date until the bill is paid or otherwise closed. The following elements will normally appear on the bill:

(i) Principal amount due;

(ii) Interest computation date;

(iii) Late payment date;

(iv) Accrual of interest charges if payment is not received by the late payment date;

(v) Applicable current interest rate;

(vi) Amount of interest owed;

(vii) Customs office where requests for administrative adjustments due to billing errors may be addressed; and

(viii) Transaction identification (e.g., entry number, reimbursable assignment number.).

(2) *Surety.* (i) Customs will report outstanding bills on a Formal Demand on Surety for Payment of Delinquent Amounts Due, for bills more than 30 days past due (approximately 60 days after bill due date), and every month thereafter until the bill is paid or otherwise closed.

The following elements will normally appear on the report:

(A) Principal amount due;

(B) Interest computation date;

(C) Late payment date;

(D) Accrual of interest charges if payment is not received by the late payment date;

(E) Applicable current interest rate;

(F) Amount of interest owed;

(G) Principal's name and address;

(H) Customs office where requests for administrative adjustments due to billing errors may be addressed; and

(I) Transaction identification (e.g., entry number, reimbursable assignment number).

(ii) Upon the written request of a surety, Customs will provide the surety a notice of containing the billing information at the time of the initial billing to its principal.

3. Section 24.3(e), Customs Regulations (19 CFR 24.3(e)), is revised to read as follows:

§ 24.3 Bills and accounts; receipts.

* * * * *

(e) All other bills for duties, taxes, or other charges are due and payable upon the bill date appearing on the bill. A bill for increased or additional duties determined to be due upon a liquidation or reliquidation is due 15 days from the date of such liquidation or reliquidation.

PART 113—CUSTOMS BONDS

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

Authority: 19 U.S.C. 66, 1623, 1624:

Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. Section 113.63(f) is amended by removing the word "and" after paragraph (3), removing the period at the end of paragraph (4), adding "; and" after paragraph (4), and by adding a new paragraph (5) to read as follows:

§ 113.63 Basic custodial bond conditions.

(f) *Reimbursement and Exoneration of the United States* * * *

* * * * *

(5) Pay any charges found to be due Customs arising out of the principal's custodial operation.

3. Section 113.65(a) is amended by removing the word "and" after paragraph (2), removing the comma after the word "claim" and replacing it with a period in paragraph (2), removing the period at the end of paragraph (3), adding the word "and" after paragraph (3), and by adding a new paragraph (4) to read as follows:

§ 113.65 Repayment of eroneous drawback payment bond conditions.

(a) *Agreement Under Exporter's Summary Procedure.* * * *

(4) The principal agrees to pay any changes due Customs as provided by law or regulation.

* * * * *

William von Raab,
Commissioner of Customs.

Approved:

Michael H. Lane,
Acting Assistant Secretary of the Treasury.

September 3, 1986.

[FR Doc. 86–22236 Filed 9–30–86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Clindamycin Hydrochloride Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rules.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. providing for safe and effective use of clindamycin hydrochloride capsules in dogs for treatment of osteomyelitis caused by *Staphylococcus aureus*.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 120–161 providing for use of Antirobe® Capsules (clindamycin hydrochloride) in dogs for treatment of osteomyelitis caused by *Staphylococcus aureus* in addition to the current approval for treatment of canine infected wounds and abscesses caused by *S. aureus*. The supplemental NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug