

neither an environmental assessment nor environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

**List of Subjects in 21 CFR Part 558**

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. In § 558.665, add paragraph (e)(2) to read as follows:

**§ 558.665 Zilpaterol.**

\* \* \* \* \*

(e) \* \* \*

Zilpaterol in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(2) 6.8 to provide 60 to 90 mg/ head/day	Melengestrol acetate to provide 0.25 to 0.5 mg/ head/day	Heifers fed in confinement for slaughter: As in paragraph (e)(1) of this section; and for suppression of estrus (heat).	As in paragraph (e)(1) of this section; see paragraph §§ 558.342(d) of this chapter. Melengestrol acetate as provided by No. 000009 in § 510.600(c) of this chapter.	057926
*	*	*	*	*

Dated: March 21, 2008.  
**Bernadette Dunham**,  
 Director, Center for Veterinary Medicine.  
 [FR Doc. E8-6601 Filed 3-28-08; 8:45 am]  
**BILLING CODE 4160-01-S**

**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade Bureau**

**27 CFR Part 41**

[T.D. TTB-68; Re: T.D. ATF-444 and Notice No. 912]

RIN 1513-AB38

**Puerto Rican Tobacco Products and Cigarette Papers and Tubes Shipped From Puerto Rico to the United States (2007R-368P)**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule (Treasury decision).

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau is adopting as a final rule, with some clarifying changes and editorial corrections, the temporary regulations set forth in T.D. ATF-444. These temporary regulations eliminated the onsite preshipment inspection of, and the requirement to complete several ATF forms for, shipments to the United States of tobacco products and cigarette papers and tubes manufactured in Puerto Rico.

**DATES:** *Effective Date:* March 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco

Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20220; telephone 202-927-8210; or e-mail [Amy.Greenberg@ttb.gov](mailto:Amy.Greenberg@ttb.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Chapter 52 of the Internal Revenue Code of 1986 (IRC) pertains to the Federal excise tax on tobacco products and cigarette papers and tubes. Section 5701 of the IRC (26 U.S.C. 5701) imposes a tax on such products manufactured in, or imported into, the United States. Section 7652(a) of the IRC (26 U.S.C. 7652(a)) imposes the same tax, with certain exceptions not pertinent here, on articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale. The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for administering the provisions of chapter 52 and section 7652(a) of the IRC as they pertain to the tax on tobacco products and cigarette papers and tubes, including promulgating regulations concerning payment and collection of the tax and other requirements that protect the revenue. Prior to January 24, 2003, our predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF) administered these regulations.

On March 8, 2001, ATF published in the **Federal Register** (66 FR 13849) a temporary rule, T.D. ATF-444, amending the regulations in 27 CFR part 275 to eliminate certain regulatory requirements related to the shipment of tobacco products and cigarette papers and tubes of Puerto Rican manufacture

from Puerto Rico to the United States. Specifically, ATF amended §§ 275.105, 275.106, 275.110, and 275.111 to eliminate the requirement that persons who ship tobacco products and cigarette papers and tubes of Puerto Rican manufacture from Puerto Rico to the United States notify ATF prior to the shipment, and to eliminate the requirements that an ATF officer: (1) inspect each shipment of such articles; (2) certify that the amount of tax on the articles has been calculated correctly; and (3) release each shipment. The amended regulations set forth recordkeeping requirements in place of the former processes of notification, physical inspection, certification, and release. Under the temporary rule, persons who ship Puerto Rican tobacco products and cigarette papers and tubes to the United States must keep and maintain records to show that the amount of tax is correctly calculated, paid (where applicable), and recorded for audit and examination purposes.

The temporary rule amendments to §§ 275.106, 275.110, and 275.111 also eliminated the requirements for the completion of four specific forms. Two forms, ATF forms 2987 (5210.8) and 3075 (5200.9), were required to be submitted to ATF by the company shipping the products to the United States, and contained information readily available from common commercial records. The elimination of these forms was intended to relieve the taxpayer of a duplicative recordkeeping requirement. The other two forms, ATF forms 2989 and 3074 (5200.6), were certificates which were prepared by ATF officers and affixed to the outside

of each shipping container, affirming that the appropriate tax had been paid. These forms were eliminated because ATF determined that they were not necessary to protect the Federal excise tax revenue due on tobacco products and cigarette papers and tubes.

T.D. ATF-444 also included some technical corrections to the regulations, including updating the delegation order numbers appearing in §§ 275.11 and 275.29.

On the same day that T.D. ATF-444 was published, ATF also published in the **Federal Register** (66 FR 13864), a notice of proposed rulemaking (NPRM), (Notice No. 912) soliciting comments on the regulatory amendments contained in T.D. ATF-444. ATF did not receive any comments in response to Notice No. 912 by the close of the public comment period.

Since the publication of T.D. ATF-444, ATF and then TTB continued to conduct audits of the commercial records of companies that ship Puerto Rican tobacco products or cigarette papers and tubes from Puerto Rico to the United States. These audits have demonstrated that the elimination of the required inspection prior to shipment, the elimination of certain forms, and the replacement of other forms with the requirement to maintain records, have allowed TTB and the regulated industry members to avoid unnecessary administrative burdens without creating any jeopardy to the revenue.

#### Subsequent Regulatory Changes

Following the publication of T.D. ATF-444, 27 CFR part 275 was recodified as 27 CFR part 41 pursuant to T.D. TTB-16, published in the **Federal Register** (69 FR 52421) on August 26, 2004. Thus, all provisions of the temporary rule identified as sections in part 275 appear in this final rule as sections in part 41.

#### Adoption of Final Rule

Based on the background information provided above, TTB has determined that the temporary regulations published in T.D. ATF-444, recodified and updated pursuant to T.D. TTB-16, should be adopted as a final rule with only minor organizational, plain language, and editorial changes. We have made such changes to §§ 41.105, 41.106, 41.110, 41.111, and 41.121 to enhance their clarity and readability without substantively affecting their texts. We have modified the section headings to §§ 41.106 and 41.111 to more clearly reflect the content of these provisions. We have also updated the Office of Management and Budget

(OMB) control numbers for §§ 41.105, 41.106, 41.110, and 41.121.

#### Inapplicability of Delayed Effective Date

Pursuant to the provisions of 5 U.S.C. 553(d)(1) and (d)(3), we are issuing these regulations without a delayed effective date. This rule finalizes regulations which provided relief from regulatory restrictions by eliminating several administrative burdens on industry members associated with onsite preshipment inspection of, and the requirement to complete several ATF forms for, shipments to the United States of tobacco products and cigarette papers and tubes manufactured in Puerto Rico. By eliminating these administrative burdens, these final regulations fit within the meaning of the relief from a restriction standard in section 553(d)(1). Furthermore, TTB has determined that good cause exists in accordance with section 553(d)(3) to finalize these regulations immediately, and without delayed effective date, in order to continue the alleviation of these administrative burdens on the industry.

#### Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), we certify that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations relieve and simplify certain administrative obligations. Primarily, the regulations replace onsite, preshipment inspections with less burdensome, periodic recordkeeping and audit requirements. The regulations also eliminate four reporting forms in further reducing administrative and recordkeeping burdens. Accordingly, these regulations will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), the temporary regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses, and we received no comments.

#### Executive Order 12866

It has been determined that this rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

#### Paperwork Reduction Act

The collections of information in the regulations contained in this final rule have been previously reviewed and

approved by Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) and assigned control numbers 1513-0083, 1513-0090, and 1513-0108. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Although sections of the regulations covered by these approvals are amended for clarity, this final rule imposes no new or revised collection of information, and does not change the reporting or recordkeeping burden.

Comments concerning suggestions for reducing the burden of the collections of information should be directed to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044-4412;
- 202-927-8525 (facsimile); or
- [formcomments@ttb.gov](mailto:formcomments@ttb.gov) (e-mail).

#### Drafting Information

Amy R. Greenberg of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

#### List of Subjects in 27 CFR Part 41

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Customs duties and inspection, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products, U.S. possessions, Warehouses.

#### Amendments to the Regulations

■ Accordingly, for the reasons set forth in the preamble, the temporary rule published on March 8, 2001, at 66 FR 13849, is adopted as a final rule with the changes as discussed above and set forth below.

#### PART 41—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

■ 1. The authority citation for part 41 continues to read as follows:

**Authority:** 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. Section 41.105 is revised to read as follows:

#### § 41.105 Prepayment of tax.

To prepay, in Puerto Rico, the internal revenue tax imposed by 26 U.S.C.

7652(a) on tobacco products and cigarette papers and tubes of Puerto Rican manufacture to be shipped to the United States, the shipper must file, or cause to be filed, a tax return, TTB F 5000.25, with full remittance of the tax which will become due on those products.

(Approved by the Office of Management and Budget under control number 1513-0090)

■ 3. Section 41.106 is revised to read as follows:

**§ 41.106 Record of shipment by taxpayer.**

(a) *Shipments other than noncommercial mail shipments.* The taxpayer must ensure that the tax has been prepaid on the tobacco products and cigarette papers and tubes in each shipment. The taxpayer must identify the tobacco products or cigarette papers or tubes by including on the bill of lading or similar record accompanying the shipment the following information:

- (1) The marks and numbers on the shipping containers;
- (2) The number of containers to be shipped;
- (3) The kind of taxable article(s) to be shipped and the rate of tax applicable to each kind of article, as specified in §§ 41.30 through 41.35;
- (4) The number of small cigarettes, large cigarettes, or small cigars to be shipped;
- (5) The number and total sale price of large cigars having a sale price of not more than \$235.294 per thousand to be shipped;
- (6) The number of large cigars having a sale price equal to or more than \$235.294 per thousand to be shipped;
- (7) The pounds and ounces of chewing tobacco or snuff to be shipped;
- (8) The pounds and ounces of pipe tobacco or roll-your-own tobacco to be shipped;
- (9) The number of cigarette papers or tubes to be shipped;
- (10) The amount of the tax paid for each kind of article under this subpart;
- (11) The name and address of the consignee in the United States to whom the products are to be shipped; and

(12) A notation identifying the particular TTB F 5000.25 by which the taxes were prepaid.

(b) *Noncommercial mail shipments.* Noncommercial mail shipments of tobacco products and cigarette papers and tubes to the United States are exempt from the requirements of paragraph (a) of this section, except that the taxpayer must provide a copy of the TTB F 5000.25 upon the request of an appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513-0108)

■ 4. Section 41.110 is revised to read as follows:

**§ 41.110 Record of tax computation and shipment by bonded manufacturer under deferred taxpayment.**

Where tobacco products or cigarette papers or tubes are to be shipped to the United States with deferred taxpayment, the bonded manufacturer must calculate the tax prior to shipment. The tax calculation must conform to the information on the bill of lading or a similar record accompanying the shipment, and the date of completing the bill of lading or similar record accompanying the shipment will be treated as the date of computation of the tax. Tobacco products or cigarette papers or tubes may be shipped to the United States in accordance with the provisions of this section only after computation of the tax. The bill of lading or similar record accompanying the shipment must include the following information:

- (a) The marks and numbers on the shipping containers;
- (b) The number of containers to be shipped;
- (c) The kind of taxable article(s) to be shipped and the rate of tax applicable to each kind of article, as specified in §§ 41.30 through 41.35;
- (d) The number of small cigarettes, large cigarettes, or small cigars to be shipped;
- (e) The number and total sale price of large cigars having a sale price of not more than \$235.294 per thousand to be shipped;

(f) The number of large cigars having a sale price equal to or more than \$235.294 per thousand to be shipped;

(g) The pounds and ounces of chewing tobacco or snuff to be shipped;

(h) The pounds and ounces of pipe tobacco or roll-your-own tobacco to be shipped;

(i) The number of cigarette papers or tubes to be shipped;

(j) The amount of the tax to be paid for each kind of article under this subpart; and

(k) The name and address of the consignee in the United States to whom the products are to be shipped.

(Approved by the Office of Management and Budget under control number 1513-0108)

■ 5. Section 41.111 is revised to read as follows:

**§ 41.111 Verification of bond and agreement to pay tax.**

(a) *Verification of bond.* Prior to shipment of tobacco products or cigarette papers or tubes to the United States, the manufacturer must verify:

- (1) That there is no default in payment of tax chargeable against the manufacturer's bond on TTB F 2986 (5210.12); and
- (2) That the amount of the manufacturer's bond is sufficient or is in the maximum penal sum to cover the tax that will become due on the shipment.

(b) *Agreement to pay tax.* The shipment of tobacco products or cigarette papers or tubes by the bonded manufacturer serves as an agreement by the manufacturer to pay the tax on that shipment.

■ 6. Section 41.121 is revised to read as follows:

**§ 41.121 Amount and account of bond.**

(a) *Bond amount.* Except for the maximum and minimum amounts stated in this paragraph, the total amount of the bond or bonds required under this subpart must be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond or bonds. The maximum and minimum amounts of such bond or bonds are as follows:

Taxable article	Bond amount maximum (in dollars)	Bond amount minimum (in dollars)
(1) Cigarettes .....	250,000	1,000
(2) Any combination of taxable articles .....	250,000	1,000
(3) One kind of taxable article other than cigarettes .....	150,000	1,000

(b) *Bond account.* Where the amount of a bonded manufacturer's bond is less than the maximum amount prescribed in paragraph (a) of this section, the bonded manufacturer must maintain an account reflecting all outstanding taxes for which the manufacturer's bond is chargeable. A manufacturer must debit that account with the amount of tax that was agreed to be paid under § 41.111 or that is otherwise chargeable against the bond and then must credit the account for the amount paid on TTB F 5000.25 or other TTB-prescribed document, at the time it is filed. A manufacturer who will defer payment of tax for a shipment of tobacco products or cigarette papers or tubes under this subpart must have sufficient credit in this account to cover the taxes prior to making the shipment to the United States.

(Approved by the Office of Management and Budget under control number 1513-0108)

Signed: January 17, 2008.

**John J. Manfreda,**  
*Administrator.*

Approved: February 27, 2008.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

[FR Doc. E8-6513 Filed 3-28-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2007-0096]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Mile 113, St. Petersburg Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulations governing the Pinellas Bayway Structure "E" (SR 679 Bridge), Gulf Intracoastal Waterway, mile 113, St. Petersburg Beach, Pinellas County, Florida. This rule will provide vehicular traffic relief during heavy vehicular traffic periods flowing into a nearby county park and will meet the reasonable needs of navigation.

**DATES:** This rule is effective April 30, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of

docket [Docket No. USCG-2007-0096] and are available online at [www.regulations.gov](http://www.regulations.gov). This material is also available for inspection or copying at two locations: the Docket Management Facility (M30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and at Commander (dph), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131-3028 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Administration Branch, telephone 305-415-6744. If you have questions on viewing the docket, call Renee W. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 4, 2007, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Gulf Intracoastal Waterway, mile 113, St. Petersburg Beach, FL in the **Federal Register**. 72 FR 68116. We have received no comments on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The Pinellas Bayway Structure "E" (SR 679) Bridge, Gulf Intracoastal Waterway mile 113, St. Petersburg Beach, Pinellas County, Florida, currently opens on signal; except that, from 9 a.m. to 7 p.m. the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour. The bridge provides vehicular access into and out of a popular county park.

At the request of Florida State Representative Frishe's office, who is acting on behalf of local citizens, the Coast Guard is changing this regulation which will require the Pinellas Bayway "E" Bridge to open on signal, except that from 7 a.m. to 9 p.m. the bridge will open on the hour and half-hour. Public vessels of the United States, tugs with tows and vessels in distress shall be allowed to pass at any time.

##### Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking (NPRM). For this reason no changes were made to the proposals for this final rule.

##### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This rule allows for scheduled bridge openings, and all waterway restrictions or closure times are published, giving adequate time for mariners to plan accordingly.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reason stated above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy or action of the Coast Guard.

##### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).