

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Furosemide

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of furosemide solution by intramuscular or intravenous injection in horses, cattle, dogs, and cats.

**DATES:** This rule is effective April 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0209, e-mail: lluther@cvm.fda.gov.

**SUPPLEMENTARY INFORMATION:** Phoenix Scientific, Inc., 3915 South 48th Street Ter., P.O. Box 6457, St. Joseph, MO 64506-0457, filed ANADA 200-293 that provides for veterinary prescription use of Furosemide Injection 5% by intramuscular or intravenous administration in horses, cattle, dogs, and cats. Phoenix's Furosemide Injection 5% is approved as a generic copy of Intervet, Inc.'s LASIX Injectable Solution, approved under NADA 34-478. ANADA 200-293 is approved as of December 18, 2001, and the regulations are amended in 21 CFR 522.1010 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 21 CFR part 20 and 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 Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an 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 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

#### § 522.1010 [Amended]

2. Section 522.1010 *Furosemide* is amended in paragraph (b)(3) by removing "No. 057926" and by adding in its place "Nos. 057926 and 059130".

Dated: March 1, 2002.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 02-9014 Filed 4-12-02; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 252

[T.D. ATF-477]

RIN 1512-AC44

#### Delegation of Authority

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Treasury decision, final rule.

**SUMMARY:** This final rule places ATF authorities concerning the exportation of liquors with the "appropriate ATF officer" and requires that persons file documents required with the "appropriate ATF officer" or in accordance with the instructions for the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word "region" in reference to ATF. Concurrently with this Treasury Decision, ATF Order 1130.27 is being issued and will be available to the public as specified in

this rule. Through this order, the Director has delegated all of the authorities concerning the exportation of liquors to the appropriate ATF officers and specified the ATF officers with whom applications, notices, and other reports, which are not ATF forms, are filed.

**EFFECTIVE DATE:** This rule is effective April 15, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Room 5003, Washington, DC 20226 (telephone 202-927-8210 or e-mail to [alctob@atfhq.atf.treas.gov](mailto:alctob@atfhq.atf.treas.gov)).

#### SUPPLEMENTARY INFORMATION:

#### Background

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC) and the Federal Alcohol Administration (FAA) Act. The Director has subsequently delegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain which particular officer is authorized to perform a particular function under chapter 51 of the IRC or the FAA Act, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 252 that were previously delegated and places those authorities with the "appropriate ATF officer." Most of the authorities of the Director that were not previously delegated are also placed with the "appropriate ATF officer." Along with this final rule, ATF is publishing ATF Order 1130.27, Delegation of the Director's Authorities

in 27 CFR part 252, Exportation of Liquors, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 252 into one delegation instrument. This action both simplifies the process for determining which ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the specific ATF officer with whom an ATF form is filed. This action is taken because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 252 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the "appropriate ATF officer" identified in ATF Order 1130.27. These changes will help identify the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart A—Scope of 27 CFR Part 252. First, a new § 252.4 is added to recognize the authority of the Director to delegate regulatory authorities in part 252 and to identify ATF Order 1130.27 as the instrument reflecting such delegations. Second, § 252.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has made or will make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings.

#### Corrections and Miscellaneous Changes

In the definition of "district director of customs" in 27 CFR 252.11 we have removed the repetition of the word "district".

In four sections of part 252, we are correcting references of "part 240" to "part 24."

Throughout 27 CFR part 252, we are revising ATF form numbers to reflect the correct numbers as shown on the following table:

Form No.	Revised form No.
700 .....	5120.36
1582-A .....	1582-A (5120.24)
1582-B .....	1582-B (5130.6)
1689 .....	1689 (5130.12)
2177 .....	2177 (5110.58)
2605 .....	2605 (5120.20)

Form No.	Revised form No.
2635 .....	2635 (5620.8)
2734 .....	2734 (5100.25)
2735 .....	2735 (5100.30)
2736 .....	2736 (5100.12)
2737 .....	2737 (5110.67)
2738 .....	2738 (5110.68)

We are removing § 252.195a since any claims filed for drawback on spirits tax determined before January 1, 1980, should have been filed.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

#### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

#### Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

#### Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

#### Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 252

Administrative practice and procedure, Aircraft, Alcohol and alcoholic beverages, Armed forces, Authority delegations (Government agencies), Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation, Vessels, Warehouses, Wine.

#### Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

#### PART 252—EXPORTATION OF LIQUORS

**Paragraph 1.** The authority citation for part 252 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

#### §§ 252.2 and 252.20 [Amended]

**Par. 2.** Remove the word "Director" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

- (a) Section 252.2(a); and
- (b) Section 252.20(a)(2) introductory text, (a)(3) and (a)(4).

**Par. 3.** Amend § 252.2 by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

#### § 252.2 Forms prescribed.

(a) \* \* \* The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

**Par. 4.** In Subpart A—Scope, a new § 252.4 is added as follows:

#### § 252.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 252 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.27, Delegation of the Director's Authorities in this part 252, Exportation of Liquors. ATF delegation orders, such as ATF Order 1130.27, are available to any

interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

**Par. 5.** Section 252.11 is amended by:

- a. Removing the definitions of “ATF officer”, “Region”, and “Regional Director (compliance)”; and
- b. Adding a new definition of “Appropriate ATF officer” and revising the definition of “Bonded wine cellar” and removing the definition of “District district director of customs” and adding in its place a definition of “District director of customs” to read as follows:

**§ 252.11 Meaning of Terms.**

\* \* \* \* \*

*Appropriate ATF Officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.27, Delegation of the Director's Authorities in 27 CFR Part 252, Exportation of Liquors.

\* \* \* \* \*

*Bonded wine cellar.* Premises established under part 24 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxed wine.

\* \* \* \* \*

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, NY), the area directors of customs in the district of New York, NY, and the port director at a port not designated as a headquarters port.

\* \* \* \* \*

**Par. 6.** Amend § 252.20 by revising the heading and the first and second sentences of paragraph (a)(1) and revising paragraph (c) to read as follows:

**§ 252.20 Alternate methods or procedures and emergency variations from requirements.**

(a) *Alternate methods or procedures—*  
(1) *Application.* An exporter, after receiving approval from the appropriate ATF officer, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. An exporter wishing to use an alternate method or procedure may apply to the appropriate ATF officer. \* \* \*

\* \* \* \* \*

(c) *Withdrawal of approval.* If the appropriate ATF officer finds the revenue is jeopardized or the effective administration of this part is hindered by the approval, such ATF officer may

withdraw approval for an alternate method or procedure or for an emergency variation from requirements, approved under paragraph (a) or (b) of this section.

**§§ 252.20, 252.22, 252.36, 252.37, 252.38, 252.43, 252.52a, 252.55, 252.56, 252.58, 252.62, 252.67, 252.70, 252.71, 252.72, 252.74, 252.96, 252.103, 252.117, 252.122, 252.123, 252.125, 252.131, 252.146, 252.147, 252.162, 252.171, 252.195b, 252.211, 252.218, 252.221, 252.226, 252.265, 252.266, 252.269, 252.275, 252.282, 252.285, 252.290, 252.301, 252.302, 252.303, 252.304, 252.310, 252.315, 252.316, 252.317, 252.320, 252.321, 252.331, 252.332, 252.333 and 252.335 [Amended]**

**Par. 7.** Remove the words “regional director (compliance)”, “regional director's (compliance)”, or “regional directors (compliance)” and add, in substitution, the words “appropriate ATF officer”, “appropriate ATF officer's” or “appropriate ATF officers”, respectively, each place it occurs in the following places:

- a. Section 252.20(b)(1), (b)(2) introductory text and (b)(3);
- b. The last two sentences of § 252.22;
- c. The undesignated paragraph of § 252.36;
- d. Section 252.37;
- e. Section 252.38;
- f. Section 252.43(a)(6) and (b)(3);
- g. Section 252.52a;
- h. Section 252.55;
- i. The introductory text of § 252.56;
- j. The last sentence of § 252.58(c);
- k. Section 252.62(b);
- l. Section 252.67;
- m. Section 252.70;
- n. Section 252.71;
- o. The second and third sentences of § 252.72;
- p. Section 252.74;
- q. Section 252.96;
- r. Section 252.103(b);
- s. The last sentence of § 252.117;
- t. Section 252.122(c) and (d);
- u. Section 252.123(b);
- v. Section 252.125;
- w. The last sentence of § 252.131;
- x. Section 252.146;
- y. The last sentence of § 252.147;
- z. The last sentence of § 252.162;
- aa. The last sentence of § 252.171;
- bb. Paragraphs (b) and (c) of § 252.195b;
- cc. The last sentence of § 252.211;
- dd. Section 252.218;
- ee. The last sentence of § 252.221;
- ff. Section 252.226;
- gg. The second sentence of § 252.265;
- hh. Section 252.266;
- ii. Section 252.269(c);
- jj. Section 252.275;
- kk. Section 252.282;
- ll. The third sentence of § 252.285;
- mm. The last sentence of the introductory text of § 252.290;

- nn. Section 252.301;
- oo. Section 252.302;
- pp. The last sentence of § 252.303;
- qq. Section 252.304;
- rr. Section 252.310;
- ss. Section 252.315;
- tt. Section 252.316;
- uu. The last sentence of § 252.317;
- vv. Section 252.320;
- ww. Section 252.321;
- xx. Section 252.331;
- yy. Section 252.332;
- zz. Section 252.333; and
- aaa. Section 252.335.

**§§ 252.22, 252.36, 252.65, 252.214, 252.215, 252.218, 252.220, 252.220a, 252.250, 252.261, 252.264, 252.265, 252.267, 252.269, 252.275, 252.281, 252.290, 252.331 and 252.333 [Amended]**

**Par. 8.** Add the numbers and parentheses “(5120.24)” after the characters “1582-A” each place they occur in the following places:

- a. Section 252.22;
- b. Section 252.36(c);
- c. Section 252.65;
- d. Section 252.214;
- e. Section 252.215;
- f. Section 252.218;
- g. Section 252.220(b);
- h. Section 252.220a;
- i. Section 252.250(a)(4);
- j. Section 252.261;
- k. Section 252.264;
- l. Section 252.265;
- m. Section 252.267;
- n. Section 252.269(a), (b) and (c);
- o. Section 252.275;
- p. Section 252.281;
- q. Section 252.290 introductory text;
- r. Section 252.331; and
- s. Section 252.333.

**§§ 252.22, 252.36, 252.43, 252.222, 252.225, 252.226, 252.227, 252.261, 252.264, 252.265, 252.267, 252.269, 252.275, 252.282, 252.290, 252.295 and 252.333 [Amended]**

**Par. 9.** Add the numbers and parentheses “(5130.6)” after the characters “1582-B” each place they occur in the following places:

- a. Section 252.22;
- b. Section 252.36(c);
- c. Section 252.43(a)(1), (a)(2), (b)(1) and (b)(2);
- d. Section 252.222;
- e. Section 252.225 introductory text;
- f. Section 252.226;
- g. Section 252.227;
- h. Section 252.261;
- i. Section 252.264;
- j. Section 252.265;
- k. Section 252.267;
- l. Section 252.269(a) and (c);
- m. Section 252.275;
- n. Section 252.282;
- o. Section 252.290 introductory text;
- p. Section 252.295; and

q. Section 252.333.

**§§ 252.22, 252.36, 252.43, 252.142, 252.146, 252.147, 252.261, 252.264, 252.265, 252.267, 252.269, 252.275, 252.282; 252.290, 252.295 and 252.320 [Amended]**

**Par. 10.** Add the numbers and parentheses “(5130.12)” after the numbers “1689” each place they occur in the following places:

- a. Section 252.22;
- b. Section 252.36(c);
- c. Section 252.43(a)(1), (a)(2), (b)(1) and (b)(2);
- d. Section 252.142;
- e. Section 252.146;
- f. Section 252.147;
- g. Section 252.261;
- h. Section 252.264;
- i. The last sentence of § 252.265;
- j. The third sentence of § 252.267;
- k. Section 252.269(a) and (c);
- l. Section 252.275;
- m. Section 252.282;
- n. Section 252.290 introductory text;
- o. Section 252.295; and
- p. Section 252.320(a).

**Par. 11.** In the seventh sentence of § 252.22 remove the words “to the regional director (compliance) designated thereon” and add, in substitution, the words “according to its instructions”.

**Par. 12.** In the first sentence of § 252.23 remove the words “Assistant regional commissioners” and add, in substitution, the words “The appropriate ATF officer”.

**§§ 252.35 and 252.36 [Amended]**

**Par. 13.** Remove the words “regional director (compliance) of the region in which the zone is located” and add, in substitution, the words “appropriate ATF officer” each place they occur in the following places:

- a. Second sentence of § 252.35; and
- b. Introductory text of § 252.36.

**Par. 14.** In § 252.36(c) remove the words “claim number assigned thereto by the regional director (compliance)” and add, in substitution the words “ATF assigned claim number”.

**§§ 252.45 and 252.104 [Amended]**

**Par. 15.** Add the word “appropriate” before the words “ATF officer” or “ATF officers” each place it appears in the following places:

- a. Section 252.45; and
- b. The second sentence of § 252.104;

**Par. 16.** Revise § 252.51 to read as follows:

**§ 252.51 General.**

Every person required by this part to file a bond or consent of surety must prepare and execute it on the prescribed

form and file it in accordance with its instructions and the procedures of this part. The procedures in parts 19, 24 or 25 of this chapter govern bonds covering distilled spirits plants, bonded wine cellars and breweries, respectively.

**Par. 16.** In the first sentence of § 252.57 remove the words “regional director (compliance)” and add, in substitution, the words “appropriate ATF officer”.

**Par. 17.** In § 252.59 remove the number “700” and add, in substitution the number “5120.36” each place it appears.

**§§ 252.61, 252.62, 252.63 and 252.64 [Amended]**

**Par. 18.** Remove the words “with the regional director (compliance)” each place they occur in the following places:

- a. The first sentence of § 252.61;
- b. Section 252.62(a);
- c. Section 252.63; and
- d. The first two sentences of § 252.64(a).

**Par. 19.** In § 252.62(c) remove the words “for approval by the Director of Industry Operations (DIO)” and add, in substitution, the words “in accordance with its instructions”.

**§§ 252.63, 252.70 and 252.73 [Amended]**

**Par. 20.** Add the numbers and parentheses “(5100.12)” after the numbers “2736” each place they appear in the following places:

- a. Section 252.63;
- b. Section 252.70; and
- c. Section 252.73(a).

**§§ 252.64, 252.71, 252.72 and 252.73 [Amended]**

**Par. 21.** Add the numbers and parentheses “(5110.67)” after the numbers “2737” each place they occur in the following places:

- a. Section 252.64;
- b. Section 252.71;
- c. Section 252.72; and
- d. Section 252.73(b).

**Par. 22.** In the last sentence of § 252.64(b) remove the words “for approval by the regional regulatory administrator” and add, in substitution, the words “in accordance with its instructions”.

**Par. 23.** In the introductory text of § 252.65 remove the words “by the regional regulatory administrator” and the words “with the regional regulatory administrator”.

**§§ 252.65, 252.71, 252.72, 252.73, 252.250 and 252.331 [Amended]**

**Par. 24.** Add the numbers and punctuation “(5110.68)” after the numbers “2738” each place they occur in the following places:

- a. Section 252.65;
- b. Section 252.71;
- c. Section 252.72;
- d. Section 252.73(b);
- e. Section 252.250 introductory text; and
- f. Section 252.331.

**§§ 252.70, and 252.73 [Amended]**

**Par. 25.** Add the numbers and parentheses “(5120.25)” after the numbers “2734” each place they occur in the following places:

- a. Section 252.70; and
- b. Section 252.73(a).

**§§ 252.71, 252.72 and 252.73 [Amended]**

**Par. 26.** Add the numbers and parentheses “(5100.30)” after the numbers “2735” each place they occur in the following places:

- a. Section 252.71;
- b. Section 252.72; and
- c. Section 252.73(b).

**Par. 27.** In the first sentence of § 252.72 remove the words “regional director (compliance) in whose office the bond is on file” and add, in substitution, the words “appropriate ATF officer”.

**Par. 28.** In § 252.92(a) remove the phrase “to the regional director (compliance) of the region in which the distilled spirits plant is located” and add, in substitution, the words “in accordance with instructions for the form”.

**Par. 29.** Amend § 252.104 by:

- a. In the third sentence by removing the words “The issuing” and adding, in substitution, the words “Such”; and
- b. In the third and fourth sentences adding the numbers and parentheses “(5110.58)” after the numbers “2177”.

**Par. 30.** In the introductory text of § 252.116 remove the words “regional director (compliance) for the region in which the plant is located” and add, in substitution the words “appropriate ATF officer”.

**Par. 31.** Revise § 252.122(a) and (b) to read as follows:

**§ 252.122 Application or notice, ATF Form 5100.11.**

(a) *Export, use on vessels and aircraft, transfer to a customs bonded warehouse, and transfer to a foreign-trade zone.* Where the exporter is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must make an application on ATF Form 5100.11 for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must, at the time of withdrawal of the wine, prepare

a notice of the withdrawal and shipment on ATF Form 5100.11. ATF approval is not required if the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn.

(b) *Manufacturing bonded warehouse.* The proprietor of the manufacturing bonded warehouse must make an application on ATF Form 5100.11 to withdraw wine without payment of tax for transportation to and deposit in such warehouse before withdrawal of the wine.

\* \* \* \*

#### **§ 252.123 [Amended]**

**Par. 32.** In § 252.123(b) remove the words “regional director (compliance)” and adding, in substitution the words “appropriate ATF officer”.

#### **§ 252.131 [Amended]**

**Par. 33.** In the introductory text of § 252.131 remove the words “regional director (compliance) for the region in which his premises are located” and add, in substitution the words “appropriate ATF officer”.

#### **§ 252.133 [Amended]**

**Par. 34.** Amend § 252.133 by:  
a. In the second sentence removing the words “regional director (compliance) of the region in which his premises are located” and adding, in substitution, the words “appropriate ATF officer”; and  
b. In the last sentence removing the words “part 240” and adding, in substitution, the words “part 24”.

#### **§ 252.152 [Amended]**

**Par. 35.** Remove from § 252.152 the punctuation and words “, Upon removal of the denatured spirits from the bonded premises, a copy of the form shall be submitted to the regional director (compliance).”

#### **§ 252.161 [Amended]**

**Par. 36.** Remove from the introductory text of § 252.161 the words “regional director (compliance) for the region in which his plant is located” and add, in substitution, the words “appropriate ATF officer”.

#### **§ 252.195a [Removed]**

**Par. 37.** Remove § 252.195a.

#### **§§ 252.198 and 252.220 [Amended]**

**Par. 38.** Remove the words “regional director (compliance) for the region in which the claim for drawback of tax was filed” and add, in substitution, the words “appropriate ATF officer” each place they appear in the following places:

- a. The introductory text of § 252.198; and
- b. The introductory text of § 252.220.

#### **§§ 252.199 and 252.220a [Amended]**

**Par. 39.** Remove the words “regional director (compliance) identified thereon” and add, in substitution the words “appropriate ATF officer” each place they appear in the following places:

- a. The last sentence of § 252.199; and
- b. The last sentence of § 252.220a.

**Par. 40.** Revise the heading, second, and third sentences of § 252.215 to read as follows:

#### **§ 252.215 Certificate of tax determination, Form 2605 (5120.20).**

\* \* \* The appropriate ATF officer may require other evidence of tax payment whenever such officer deems it necessary. The exporter is responsible for securing Form 2605 (5120.20), properly executed, and submitting the original of such form with the claim.

\* \* \*

**Par. 41.** Add the numbers and parentheses “(5120.20)” after the number “2605” each place they occur in the following places:

- a. The first and last sentence of § 252.215;
- b. The last sentence of § 252.331; and
- c. The last sentence of § 252.333.

#### **§§ 252.225 and 252.227 [Amended]**

**Par. 42.** Remove the words “regional director (compliance) of his region” and add, in substitution the words “appropriate ATF officer” each place they appear in the following places:

- a. The introductory text of § 252.225; and
- b. The last sentence of § 252.227.

**Par. 43.** In § 252.247 remove the words “regional director (compliance)” and add, in substitution the words “ATF officer”.

#### **§ 252.250 [Amended]**

**Par. 44.** Amend § 252.250 by:

- a. In the introductory text by removing the words “with the regional director (compliance) with whom the notice and claim is filed” and adding, in substitution, the words “appropriate ATF officer” each place they appear; and
- b. In the last sentence by removing the words “regional director (compliance) with whom the application, notice, or notice and claim is filed” and adding, in substitution, the words “appropriate ATF officer”.

**Par. 45.** In the second sentence of § 252.262 remove the words “regional director (compliance) of the region from

which the shipment was made” and add, in substitution, the words “appropriate ATF officer”.

**Par. 46.** In the first sentence of § 252.265 remove the words “regional director (compliance) within whose region the port of export is located” and add, in substitution, the words “appropriate ATF officer”.

**Par. 47.** In the first sentence of § 252.268 remove the words “regional director (compliance) with whom the application, notice, or notice and claim is filed” and add, in substitution, the words “appropriate ATF officer”.

**Par. 48.** In the last sentence of § 252.286 remove the words “to the regional regulatory administrator” and add, in substitution, the words “as required by the instructions on the form”.

#### **§§ 252.303 and 252.317 [Amended]**

**Par. 49.** Remove the words “with the regional director (compliance),” and add the numbers and parentheses “(5620.8)” after the numbers 2635 each place they occur from the following places:

- a. Introductory text of § 252.303; and
- b. Introductory text of § 252.317.

**Par. 50.** Amend § 252.334 by:

- a. Revising the first sentence to read as follows:

#### **§ 252.334 Credit allowance.**

Where the credit relates to internal revenue taxes on beer that have been determined but not yet paid by the claimant, the appropriate ATF officer will notify the claimant in writing. \* \* \*

- b. In the third sentence removing the words “part 240” and adding, in substitution, the words “part 24”.

Signed: February 4, 2002.

**Bradley A. Buckles,**  
*Director.*

Approved: March 6, 2002.

**Timothy E. Skud,**  
*Acting Deputy Assistant Secretary,*  
*(Regulatory, Tariff and Trade Enforcement).*  
[FR Doc. 02-8869 Filed 4-12-02; 8:45 am]

**BILLING CODE 4810-31-P**

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1926****[Docket # S-018]****RIN 1218-AB88****Safety Standards for Signs, Signals, and Barricades****AGENCY:** Occupational Safety and Health Administration; Labor.**ACTION:** Direct final rule; request for comments.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is issuing a direct final rule amending construction industry standards to require that traffic control signs, signals, barricades or devices protecting construction workers conform to Part VI of either the 1988 Edition of the Federal Highway Administration (FHWA) Manual on Uniform Traffic Control Devices (MUTCD), with 1993 revisions (Revision 3) or the Millennium Edition of the FHWA MUTCD (Millennium Edition), instead of the American National Standards Institute (ANSI) D6.1-1971, Manual on Uniform Traffic Control Devices for Streets and Highways (1971 MUTCD). This action is consistent with OSHA's June 16, 1999 interpretation letter stating that the agency would allow employers to comply with Revision 3 in lieu of the 1971 MUTCD. See also the companion document published in the Proposed Rules section of today's **Federal Register**.

**DATES:** This direct final rule will become effective August 13, 2002 unless significant adverse comments are received by June 14, 2002. If adverse comment is received, OSHA will publish a timely withdrawal of the rule in the **Federal Register**. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 13, 2002.

**ADDRESSES:** You may submit three copies of written comments to OSHA Docket Office, Docket No. S-018, Docket Office, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-2625, Washington, DC 20210; telephone (202)-693-2350.

If written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office telephone number (202) 693-1648.

You may submit comments electronically through OSHA's Homepage at [ecomments.osha.gov](http://ecomments.osha.gov).

Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach the materials to your electronic comments.

*How to obtain copies of the MUTCD:*

The Federal Highway Administration partnered with three organizations to print copies of the Millennium Edition Manual of Uniform Traffic Control Devices for sale. The organizations are: (1) American Traffic Safety Services Association, 15 Riverside Parkway, Suite 100, Fredericksburg, VA 22406-1022; Telephone: 1-800-231-3475; FAX: (540) 368-1722; [www.atssa.com](http://www.atssa.com); (2) Institute of Transportation Engineers, 1099 14th Street, NW, Suite 300 West, Washington, DC 20005-3438; FAX: (202) 289-7722; ; [www.ite.org](http://www.ite.org); and (3) American Association of State Highway and Transportation Officials; [www.aashto.org](http://www.aashto.org); Telephone: 1-800-231-3475; FAX: 1-800-525-5562.

On-line copies of the Millennium Edition are available for downloading from DOT's web site: <http://mutcd.fhwa.dot.gov/kno-millennium>.

On-line copies of the 1988 Edition of the Manual on Uniform Traffic Control Devices (Revision 3, dated 9/93, with the November 1994 Errata No. 1) are available for downloading from OSHA's website: [http://www.osha.gov/doc/highway\\_workzones](http://www.osha.gov/doc/highway_workzones). In addition, both documents are available for viewing and copying at each OSHA Area Office.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Ford, Office of Construction Standards and Construction Services, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3468, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2345.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

This direct final rule applies to employers involved in road construction and repair operations. It addresses the types of signs, signals, and barricades that must be used in areas where road-work is being performed. The vast majority of road construction projects undertaken in the United States are funded through Federal transportation grants. As a condition to receiving Federal funding, the U.S. Department of Transportation's (DOT's)

Federal Highway Administration requires compliance with its MUTCD.

In furtherance of OSHA's statutory mandate to protect the health and safety of employees, OSHA also requires employers that are within the scope of its authority to comply with the MUTCD. However, OSHA's standard incorporates the 1971 version of the MUTCD, which FHWA has since updated. The purpose of this direct final rule is to update OSHA's standard.

**II. Direct Final Rulemaking**

In direct final rulemaking, the agency publishes a final rule in the **Federal Register** with a statement that, unless a significant adverse comment is received within a specified period of time, the rule will become effective. An identical proposed rule is often published at the same time. If no significant adverse comments are submitted, the rule goes into effect. If any such comments are received, the agency will withdraw the direct final rule. The comments will then be treated as comments to the proposed rule. Direct final rulemaking is used where the agency anticipates that the rule will be noncontroversial. Examples include minor substantive changes to regulations; incorporation by reference of the latest edition of technical or industry consensus standards, and direct incorporations of mandates from new legislation.

For purposes of this direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. A comment recommending an addition to the rule will not be considered a significant adverse comment unless the comment states why this rule would be ineffective without the addition. If timely significant adverse comments are received, the agency will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule no later than July 15, 2002.

OSHA is also publishing a companion proposed rule, which is essentially identical to the direct final rule. In the event the direct final rule is withdrawn because of significant adverse comment, the agency can proceed with the rulemaking by addressing the comment