

provided by other laws or regulations or unless the employee has agreed in writing to a greater amount.

(2) *Installment deductions.* (i) The size of installment deductions must bear a reasonable relation to the size of the debt and the employee's ability to pay. If possible, the size of the deduction will be that necessary to liquidate the debt in no more than 1 year. However, the amount deducted for any period must not exceed 15 percent of the disposable pay from which the deduction is made, except as provided by other laws or regulations or unless the employee has agreed in writing to a greater amount.

(ii) Installment payments of less than \$50 per pay period will be accepted only in unusual circumstances such as when that amount exceeds 15% of disposable pay.

(iii) Installment deductions should be sufficient in size and frequency to liquidate the Government's claim within three years and must be made over a period not greater than the anticipated period of employment.

§ 1306.17 Non-waiver of rights by payments.

So long as there are no statutory or contractual provisions to the contrary, no employee payment (of all or a portion of a debt) collected under this part will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 1306.18 Waiver of indebtedness.

(a) An employee may request a waiver of indebtedness. When an employee makes a request under a statutory right, further collection may be stayed pending an administrative determination on the request. During the period of any suspension, interest, penalties and administrative charges may be held in abeyance. MCC will not duplicate, for purposes of salary offset, any of the notices/procedures already provided the debtor prior to a request for waiver.

(b) Waiver of indebtedness is an equitable remedy and as such must be based on an assessment of the facts involved in the individual case under consideration. The burden is on the employee to demonstrate that the applicable waiver standard has been met in accordance with MCC's Policy on Waivers of Indebtedness.

(c) A debtor requesting a waiver shall do so in writing to the official identified in § 1306.12(a)(8) and within the timeframe stated within the initial notice sent under § 1306.12. The debtor's written response shall state the

basis for the dispute and include any relevant documentation in support.

(d) While a waiver request is pending, MCC may suspend collection, including the accrual of interest and penalties, on the debt if MCC determines that suspension is in the agency's best interest or would serve equity and good conscience.

§ 1306.19 Compromise.

MCC may attempt to effect a compromise with respect to the debt in accordance with the process and standards set forth in the FCCS, 31 CFR part 902.

§ 1306.20 Suspension.

Any suspension of collection action shall be made in accordance with the standards set forth in the FCCS, 31 CFR 903.1–903.2.

§ 1306.21 Termination.

Any termination of a collection action shall be made in accordance with the standards set forth in the FCCS, 31 CFR 903.1 and 903.3–903.4.

§ 1306.22 Discharge.

Once a debt has been closed out for accounting purposes and collection has been terminated, the debt is discharged. MCC must report discharged debt as income to the debtor to the Internal Revenue Service per 26 U.S.C. 6050P and 26 CFR 1.6050P–1.

§ 1306.23 Bankruptcy.

A debtor should notify MCC at the contact office provided in the original notice of the debt, if the debtor has filed for bankruptcy. MCC will require documentation from the applicable court indicating the date of filing and type of bankruptcy. Pursuant to the laws of bankruptcy, MCC will suspend debt collection upon such filing unless the automatic stay is no longer in effect or has been lifted. In general, collection of a debt discharged in bankruptcy shall be terminated unless otherwise provided for by bankruptcy law.

§ 1306.24 Refunds.

(a) MCC will refund promptly to the appropriate individual amounts offset under this part when:

(1) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(2) MCC is directed by an administrative or judicial order to make a refund.

(b) Refunds do not bear interest unless required or permitted by law or contract.

Dated: August 25, 2016.

Laura M. Leussing,

Assistant General Counsel, Millennium Challenge Corporation.

[FR Doc. 2016–20800 Filed 8–29–16; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 19, 20, 21, 27, and 28

[Docket No. TTB–2013–0005; T.D. TTB–140; Re: Notice No. 136]

RIN 1513–AB59

Reclassification of Specially Denatured Spirits and Completely Denatured Alcohol Formulas and Related Amendments

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

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is amending its regulations concerning denatured alcohol and products made with industrial alcohol. The amendments eliminate outdated specially denatured spirits formulas from the regulations, reclassify some specially denatured spirits formulas as completely denatured alcohol formulas, and issue some new general-use formulas for manufacturing products with specially denatured spirits. The amendments remove unnecessary regulatory burdens on the industrial alcohol industry, as well as on TTB, and align the regulations with current industry practice. The amendments also make other improvements and clarifications, as well as a number of minor technical changes and corrections to the regulations.

DATES: This final rule is effective October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Karen Welch, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202–453–1039, ext. 046; email IndustrialAlcoholRegs@ttb.gov.

SUPPLEMENTARY INFORMATION:

Authority and Background

Internal Revenue Code

Chapter 51 of the Internal Revenue Code of 1986 (IRC), 26 U.S.C. chapter 51, contains excise tax and related provisions concerning distilled spirits used for both beverage and nonbeverage purposes. The IRC imposes an excise tax

rate of \$13.50 per proof gallon on distilled spirits (26 U.S.C. 5001). Under section 5006(a) of the IRC (26 U.S.C. 5006(a)) the excise tax on distilled spirits is generally determined at the time the distilled spirits are withdrawn from the bonded premises of a distilled spirits plant.

However, section 5214(a) of the IRC authorizes, subject to regulations prescribed by the Secretary of the Treasury, the following two types of spirits to be withdrawn free of tax:

- Spirits that have been “denatured” by the addition of materials that make the spirits unfit for beverage consumption; and
- Undenatured spirits for certain governmental, educational, medical, or research purposes.

Section 5214(a)(1) of the IRC permits the withdrawal of denatured spirits free of tax for:

- Exportation;
- Use in the manufacture of a definite chemical substance, where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or
- Any other use in the arts or industry, or for fuel, light, or power, except that, under 26 U.S.C. 5273(b), denatured spirits may not be used in the manufacture of medicines or flavors for internal human use where any of the spirits remain in the finished product, and, under section 5273(d), denatured spirits may not be withdrawn or sold for beverage purposes.

The IRC authorizes the Secretary of the Treasury to prescribe regulations regarding the production, warehousing, denaturing, distribution, sale, export, and use of industrial alcohol in order to protect the revenue (26 U.S.C. 5201), and to regulate materials that are suitable to denature distilled spirits (26 U.S.C. 5241 and 5242). Section 5242 states that denaturing materials shall be such as to render the spirits with which they are admixed unfit for beverage or internal medicinal use and that the character and quantity of denaturing materials used shall be as prescribed by the Secretary by regulations. Furthermore, section 5273(a) of the IRC requires that any person using specially denatured spirits (which is defined in the following section of this document) to manufacture products:

* * * shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of

the article, formula, and process has been obtained from the Secretary.¹

Regulation of Denatured Spirits

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 of the IRC pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (dated December 10, 2013, superseding Treasury Order 120–01 (Revised), “Alcohol and Tobacco Tax and Trade Bureau,” dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Regulations pertaining specifically to denatured spirits are found in 27 CFR part 20 (Distribution and use of denatured alcohol and rum) and part 21 (Formulas for denatured alcohol and rum). Certain provisions in TTB’s regulations in 27 CFR part 19 (Distilled spirits plants), part 27 (Importation of distilled spirits, wines, and beer), and part 28 (Exportation of alcohol) also concern denatured spirits. Denatured spirits are spirits to which denaturants—which are materials that make alcoholic mixtures unfit for beverage or internal human medicinal use—have been added in accordance with 27 CFR part 21. TTB approves denaturants if the denaturants: (1) Make the spirits unfit for beverage or internal human medicinal use (26 U.S.C. 5242 and 27 CFR 21.11), (2) are adequate to protect the Federal excise tax revenue (27 CFR 21.91), and (3) are suitable for the intended use of the denatured spirits (26 U.S.C. 5242).²

There are two types of denatured spirits: Completely denatured alcohol (C.D.A.) and specially denatured spirits (referred to as “S.D.S.” for purposes of this preamble). C.D.A. jeopardizes the revenue less than S.D.S. does—first, C.D.A. is more offensive to the taste than S.D.S. and thus C.D.A. is less likely

¹ Other sections of the IRC relating to denatured spirits set forth requirements pertaining to the taxation and manufacture of distilled spirits, the withdrawal of distilled spirits free of tax or without payment of tax, the importation and exportation of distilled spirits, the issuance of permits for industrial alcohol users and dealers, the sale and use of industrial alcohol, and the recovery of potable alcohol from industrial alcohol (see 26 U.S.C. 5002 through 5008, 5061, 5062, 5101, 5111, 5112, 5131, 5132, 5181, 5204, 5214, 5232, 5235, 5271, 5273, and 5313).

² In most cases, spirits used for industrial purposes are “alcohol,” which in this context means a type of spirits distilled at more than 160 degrees of proof and substantially neutral in character, lacking the taste, aroma, and other characteristics generally attributed to whiskey, brandy, rum, or gin. (27 CFR 19.487(a)(1).)

to be used for beverage purposes, and second, it is more difficult to separate potable alcohol from C.D.A. than it is from S.D.S. For these reasons, the withdrawal and use of C.D.A. are subject to less stringent regulatory oversight than are the withdrawal and use of S.D.S.

Title 27 CFR 20.41 provides that permits are required to withdraw, deal in, or use S.D.S. The regulations also require that dealers and users of S.D.S. maintain specified records and retain invoices (see 27 CFR 20.262 through 20.268). Under § 20.264(b), users of S.D.S. are required to submit an annual report to TTB, and, under § 20.262(d), a dealer, as defined in 27 CFR 20.11, when requested by TTB, must submit a required accounting of each formulation of new and recovered S.D.S. In contrast, under 27 CFR 20.141, no permits are required to use or distribute C.D.A. (with the exception of recovery for reuse). A person that receives, packages, stores, disposes of, or uses C.D.A. is required to maintain records only when specifically requested by TTB (see 27 CFR 20.261). The regulations do not provide any reporting requirements for persons that use or deal in C.D.A.

The regulations prescribe formulas for C.D.A. and for S.D.S. C.D.A. generally may be sold and used for any purpose (§ 20.141), with the exception that C.D.A. denatured in accordance with Formula No. 20 is restricted to fuel use (27 CFR 21.24). In contrast, S.D.S., which is generally used as a raw material or ingredient in the manufacture of other products (termed “articles”), may not be used for any purpose not specifically authorized in the regulations. The authorized purposes are categorized within “use codes,” which are published in the regulations in 27 CFR part 21.

Manufacture of Articles With Denatured Spirits

Both C.D.A. and S.D.S. may be used to manufacture articles, which are defined in section 5002(a)(14) of the IRC (26 U.S.C. 5002(a)(14)) as “any substance in the manufacture of which denatured distilled spirits are used.” The manufacture of articles with C.D.A. is generally unregulated. By contrast, the manufacture of articles with S.D.S. is strictly regulated under 27 CFR part 20, in accordance with sections 5271 through 5275 of the IRC (26 U.S.C. 5271–5275). A significant aspect of this regulation is the requirement for prior TTB approval of all articles made with S.D.S. Such approval is mandated by law in section 5273(a) of the IRC (26 U.S.C. 5273(a)), which states, “* * * no person shall use specially denatured

distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.”

TTB approval of articles takes two forms. First, TTB approves specific, proprietary formulas and processes for articles, submitted by manufacturers on TTB Form 5150.19, Formula and/or Process for Article Made with Specially Denatured Spirits. (TTB encourages industry members to submit this form electronically using Formulas Online, which is available at www.ttb.gov.) Second, “general-use formulas,” which TTB generally approves by publishing them in the regulations in 27 CFR part 20, are approved formulas for articles. General-use formulas may be used by any manufacturer that has a TTB permit to use S.D.S. in the manufacture of articles. Each general-use formula authorizes the production of only a specific type of article. Under § 20.111, manufacturers of articles produced pursuant to general-use formulas are not required to obtain specific formula approval from TTB on TTB Form 5150.19. Thus, the regulatory burden is lighter on manufacturers producing articles pursuant to general-use formulas than on manufacturers producing articles pursuant to other formulas that prescribe S.D.S. (In fiscal year 2015, TTB received 1,163 formula applications on TTB Form 5150.19.)

Terminology

TTB is providing the following definitions to assist in comprehension of this final rule:

- An *article* is any substance or preparation manufactured using denatured spirits.
- *Completely Denatured Alcohol (C.D.A.)* is alcohol that has been denatured under a formula specified in subpart C of 27 CFR part 21. Only a registered distilled spirits plant may produce C.D.A. TTB and industry generally refer to formulations of C.D.A. by the formula number. For example, a formulation produced in accordance with C.D.A. Formula No. 20 is simply referred to as “C.D.A. 20.” To reflect the common parlance, this same shorthand is used throughout this document.

- A *formula* is an instruction for manufacturing a product, and is analogous to a recipe that a cook follows. This document refers to two broad types of formulas: denatured alcohol formulas and article formulas. Denatured alcohol formulas specify the instructions for producing either S.D.S. (as specified in 27 CFR part 21 subpart D) or C.D.A. (as specified in 27 CFR part 21 subpart C). Article formulas include both formulas approved individually by

TTB on TTB Form 5150.19 and general-use formulas (as specified in 27 CFR 20.112 through 20.119).

- A *formulation* is a physical product manufactured in accordance with a formula, and is analogous to a cooked meal that has been prepared using a recipe. The word “formulation” can refer to S.D.S., C.D.A., or an article.

- A *general-use formula* is a formula for making a certain type of article that is prescribed by 27 CFR 20.112 through 20.119, approved by TTB as an alternate method, or published as a TTB ruling. Specific formula approval by TTB on Form 5150.19 is not required for an article made pursuant to a general-use formula.

- *Specially Denatured Alcohol (S.D.A.)* is alcohol that has been denatured following a formula specified in subpart D of 27 CFR part 21. A formulation of S.D.A. may be used only for the uses specified for the corresponding formula in 27 CFR part 21.

- *Specially Denatured Rum (S.D.R.)* is a rum that has been denatured following the formula specified in subpart D of 27 CFR part 21. S.D.R. may be used only for the uses specified for that formula in 27 CFR part 21.

- *Specially Denatured Spirits (S.D.S.)* are specially denatured alcohol (S.D.A.) and/or specially denatured rum (S.D.R.). Only a registered distilled spirits plant may produce S.D.S. TTB and industry generally refer to formulations of S.D.S. by the formula number. For example, a formulation produced in accordance with S.D.A. Formula No. 40-B is simply referred to as “S.D.A. 40-B.” To reflect the common parlance, this same shorthand is used throughout this document.

Notice of Proposed Rulemaking

On June 27, 2013, TTB published Notice No. 136 in the **Federal Register** (78 FR 38628) to propose several changes to the regulations to ease burdens on industry members and on TTB, as well as other improvements and clarifications. While a more detailed description of those proposals can be found in Notice No. 136, TTB provides a general summary below:

Removal of Certain S.D.A. Formulas

In Notice No. 136, TTB proposed to remove, from part 21, 16 S.D.A. formulas that do not appear to be in use—specifically, S.D.A. Formula Nos. 2-C, 3-B, 6-B, 17, 20, 22, 23-F, 27, 27-A, 27-B, 33, 38-C, 39, 39-A, 42, and 46. In addition to proposing to remove those 16 formulas, TTB also proposed to remove references to those formulas from part 21, as well as references to,

and any specifications for, denaturants that are prescribed by those 16 formulas and are not mentioned in other formulas.

Reclassification of Certain S.D.A. Formulas as C.D.A. Formulas

TTB identified two S.D.A. formulas that TTB could reclassify as C.D.A. formulas, because it would be very difficult to separate the denaturant from the alcohol in the resulting formulation. TTB proposed to reclassify S.D.A. Formula Nos. 12-A and 35 as C.D.A. formulas by removing 27 CFR 21.40 and 21.61 and by adding new 27 CFR 21.21a and 21.25 respectively. TTB also proposed to remove other references to these two S.D.A. formulas from part 21.

General-Use Formula for Articles Made With Certain S.D.A. Formulations

TTB also determined that it would be appropriate to issue a new, multi-purpose general-use formula for any appropriate articles made with one or more of 15 S.D.A. formulations that TTB identified as being appropriate for the general-use formula. Such a general-use formula would alleviate paperwork burdens for both industry members and TTB, because the manufacturer of an article produced in accordance with a general-use formula is not required to obtain specific formula approval from TTB on Form 5150.19. Furthermore, because it would be difficult to separate the alcohol from the articles produced using one or more of those 15 S.D.A. formulations, the revenue would not be jeopardized. Accordingly, TTB proposed to specify S.D.A. Formula Nos. 1, 3-A, 13-A, 19, 23-A, 23-H, 30, 32, 35-A, 36, 37, 38-D, 40, 40-A, and 40-B in a multi-purpose general-use formula in new 27 CFR 20.120.

General-Use Formulas, With Conditions, for Certain Articles Made With S.D.A. Formulas

TTB also identified three S.D.A. formulations that may be used as ingredients, subject to certain conditions, in certain general-use formulas. Accordingly, TTB proposed:

- To allow the use of S.D.A. 18 in a vinegar general-use formula in new 27 CFR 20.121 (which would have as a condition that the ethyl alcohol either loses its identity in the vinegar-making process or only residual ethyl alcohol within the limit specified in 27 CFR 20.104 remains);

- To allow the use of S.D.A. 39-C in a new general-use formula in 27 CFR 20.122 (which would have as a condition that each gallon of finished product contain not less than 2 fluid ounces of perfume material); and

- To provide for the use of S.D.A. 40-C in a pressurized container general-use formula in new 27 CFR 20.123 (which would have as a condition that the formula only be used in the manufacture of products that will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form).

Only the uses that are currently approved for the corresponding S.D.A. formula in part 21 would be allowed under each of these three new general-use formulas.

TTB also proposed to remove 27 CFR 20.103 from the regulations. Section 20.103 requires that articles made with S.D.A. 39-C contain at least two fluid ounces of perfume material in each gallon of finished product. Because this condition will appear in the general-use formula specified in the new § 20.122, and because the new general-use formula covers all articles made with S.D.A. 39-C, the condition is no longer needed in § 20.103.

Additional Changes to Formulas

In addition to the changes discussed above, TTB proposed to:

- Create a general-use formula for duplicating fluids and ink solvents specifying S.D.A. 1, 3-A, and 3-C in new 27 CFR 20.124; and
- Amend the proprietary solvents general-use formula (27 CFR 20.113) to also allow the use of S.D.A. 3-C in making proprietary solvents.

TTB also proposed to remove benzene—which the U.S. Environmental Protection Agency (EPA) has designated in its regulations as a hazardous air pollutant under the Clean Air Act (40 CFR 61.01(a))—as a denaturant prescribed in S.D.A. Formula No. 2-B (27 CFR 21.33), and to exclude benzene from the denaturants prescribed by the new C.D.A. Formula No. 12-A in proposed § 21.21a. While TTB also proposed to remove benzene from the list of authorized denaturants in 27 CFR 21.151, TTB did not propose to remove the specifications for benzene contained in 27 CFR 21.97. TTB will remove § 21.97 in this rule because the benzene specifications are no longer needed.

Other Substantive Changes

In addition to the changes to the S.D.S. and C.D.A. formulas, denaturant specifications, and general-use formulas, TTB also proposed the following changes to the regulations to provide greater flexibility to industry members:

- To clarify the regulations relating to the destruction of S.D.S. or recovered alcohol, TTB proposed to amend 27 CFR 20.222 to state that destruction of recovered material that is not sufficiently denatured to meet the formula specifications of an article must be done by the original manufacturer, a distilled spirits plant, or a facility that possesses an S.D.S. dealer's permit.

- TTB proposed to amend 27 CFR 20.63 to allow any permittee to adopt, for use at any of its plants, any formula previously approved for use at another of its plants, or any formula previously approved for its parent or wholly-owned subsidiary.

- TTB proposed to amend § 20.102 to except bay rum, alcoholado, and alcoholado-type toilet waters produced under an approved formula and endorsed "For Export Only" from the requirement that they be produced from the materials specified in that section.

- To make the regulations on reagent alcohol less restrictive, TTB proposed to amend 27 CFR 20.117 to allow permittees who have a legitimate use for reagent alcohol in manufacturing to receive it for that purpose, but only from distilled spirits plants and S.D.S. user or dealer permittees. TTB also proposed to amend § 20.117(a) to provide for treatment of reagent alcohol as S.D.A. when distributed for use in manufacturing.

- TTB proposed to amend 27 CFR 20.134 to allow containers of articles to either (1) bear a label or (2) have the required information etched or printed directly on the containers, since the technology now exists to etch or print information directly on containers.

- TTB proposed to amend the regulations by adding a new 27 CFR 20.183 which would allow for the exportation of most S.D.S. formulations by dealers provided that the S.D.S. conforms to a formula specified in part 21 of the TTB regulations, that the exportation is to a country, the laws of which allow the importation of such spirits, and that the dealer notifies TTB of the exportation.

- TTB proposed to add new § 20.193 (27 CFR 20.193) to allow for the export of articles that would not be approved for domestic distribution. Previously, TTB and its predecessor agency, the Bureau of Alcohol, Tobacco, and Firearms (ATF), provided for such exports on individual bases as alternate methods or procedures.

Clarifying and Technical Changes

In Notice No. 136, TTB proposed several technical changes, as well as changes to clarify the regulations, and

TTB is finalizing those changes in this rulemaking.

Comments Received and TTB Responses

TTB received a total of four comment submissions in response to Notice No. 136, from Archer Daniels Midland Company (ADM) (Comment 1), an individual who works in industry (Comment 2), Videojet Technologies, Inc. ("Videojet") (Comments 3a through 3d), and the Renewable Fuels Association (RFA) (Comment 4). All comments appear on "*Regulations.gov*," the Federal Rulemaking portal, at <http://www.regulations.gov>, in Docket No. TTB-2013-0005.

Comment 1

ADM's comment submission (Comment 1) included nine specific comments. One of those comments expressed support for the clarification regarding the importation of denatured spirits and fuel alcohol in § 27.222. ADM's eight other comments, and TTB's responses, are as follows:

- *ADM comment:* ADM stated that the current general-use formulas (§§ 20.112 through 20.118) "are prescriptive in that they detail what denaturants and amounts must be added to the applicable S.D.A.," but the general-use formula proposed in § 20.120 is "less prescriptive in that it only states that an additional denaturant must be added." ADM noted their concern that the proposed formula could be misinterpreted, which would result in inadvertent noncompliance.

TTB response: General-use formulas do not specify denaturants that must be used in producing an article. Rather, they specify which type of S.D.A. must be used to produce the article. It is the S.D.A. that contains the denaturants, per the S.D.A. formula provided in 27 CFR part 21. Some of the general-use formulas also specify additional ingredients that must be used, but not all of the existing general use-formulas specify exact quantities of additional ingredients. For example, the existing tobacco flavor general-use formula (§ 20.114) only requires the use of S.D.A. Formula No. 4 or S.D.R. Formula No. 4 and "sufficient flavors," and the existing ink general-use formula in § 20.115 only requires the use of one of several specified S.D.A. formulations and "sufficient pigments, dyes, or dyestuffs." The permissiveness of the general-use formula proposed in the new § 20.120 is consistent with TTB's longstanding approach. This approach provides manufacturers with a degree of flexibility in producing articles—which minimizes the paperwork burden

imposed on both manufacturers and TTB—while still protecting the revenue. Therefore, TTB will finalize the general-use formula in § 20.120 as proposed.

- *ADM comment:* ADM noted that the names of existing general-use formulas describe the type of article that is produced in accordance with the general-use formula. ADM recommended that TTB assign a similar type of name to the general-use formula proposed in new § 20.120.

TTB response: Many kinds of articles may be produced in accordance with the general-use formula proposed in new § 20.120, making it impractical to assign a name to the general-use formula based on the resulting articles. However, TTB has reconsidered calling the general-use formula the “General-use formula for articles made with S.D.A. 1, 3–A, 13–A, 19, 23–A, 23–H, 30, 32, 35–A, 36, 37, 38–D, 40, 40–A, or 40–B,” and instead has determined that “Multi-purpose general-use formula” is less cumbersome. Accordingly, TTB has changed the name of that general-use formula to “Multi-purpose general-use formula” in this document.

- *ADM comment:* ADM believes that the lists of “Authorized Uses” for the various S.D.A. formulas 27 CFR part 21—which are listed in § 21.141 and in section (b) of each section of part 21 subpart D—are overly lengthy, overly specific, and in some cases redundant or repetitive. ADM asked that TTB limit the “Authorized Uses” lists to more general usage categories such as “ingredient in personal care product” or “process aid in food production.”

TTB response: Though TTB sees the value in revising the lists of “Authorized Uses,” such a revision is outside the scope of the regulatory changes published in the Notice No. 136. TTB will consider such revisions for a future rulemaking.

- *ADM comment:* ADM echoed one of the comments made in response to Notice No. 83, a comment that TTB discussed in Notice No. 136. Specifically, the comments relate to TTB’s specification of exact amounts of denaturants in C.D.A. and S.D.A. formulas. ADM noted that “it is not practical to expect and impossible to ensure that the exact amounts of denaturants have been added,” and asked TTB to “provide clarification in the regulations regarding acceptable variability in denaturant addition” by using “action levels” in enforcement or applying standard rounding rules.

TTB response: TTB applies a plus or minus five percent tolerance when analyzing samples of S.D.A., C.D.A., and articles to determine compliance with the formula. TTB also employs standard

rounding rules when reviewing results of analyses, where a number is rounded up if the first digit after the last significant digit is “5” or more, and a number is rounded down if the first digit after the last significant digit is “4” or less. For example, if TTB were examining an article made pursuant to a formula specifying a mixture of 90 percent by volume S.D.A. 3–C and 10 percent by volume *n*-propyl acetate, taking into consideration the plus or minus five percent tolerance, the acceptable range of S.D.A. 3–C in the article would be 85.5–94.5 percent by volume. If laboratory analysis of the article showed that the article contains 85.45 percent S.D.A. 3–C, TTB would round that result to 85.5 percent, which would be in compliance with the formula. If laboratory analysis showed that the article contains 85.44 percent S.D.A. 3–C, TTB would round that result to 85.4 percent, which would be out of compliance with the formula.

Accordingly, TTB is adding a new paragraph (d) to both 27 CFR 21.21 and 21.31 to state the analytical tolerance and the use of standard rounding rules. TTB also applies the plus or minus five percent tolerance and standard rounding rules when analyzing samples of articles that were made pursuant to a formula that specified an exact amount of an ingredient, including denatured spirits. Accordingly, TTB is revising 27 CFR 20.132 to state the analytical tolerance and the use of standard rounding rules. TTB believes that the plus or minus five percent tolerance and the application of standard rounding rules provide for a reasonable degree of variation.

- *ADM comment:* ADM asked TTB to consider modifying labeling requirements as described in 27 CFR 20.134, concerning the labeling of articles, and 20.146, concerning labels on bulk containers of C.D.A., because “it is not general practice to label transport containers with product name, manufacturer name, etc.,” and “in the case of rail and truck tankers, containers are placarded per [Department of Transportation (DOT)] regulations and product information is listed on shipping paperwork. Any identification beyond that stipulated by the DOT for first responders could easily decrease the security of the product in transit.”

TTB response: As ADM stated, TTB did not specifically address this labeling issue in Notice No. 136. Therefore, TTB cannot make substantive changes to those sections in this document, as they are outside the scope of this rulemaking. However, as ADM noted, §§ 20.134 and 20.146 do not specifically address large transport containers such as truck

tankers, railcars, or barges. TTB notes that in 27 CFR 19.495, for bulk conveyances of spirits or denatured spirits—which would include containers such as truck tankers, railcars, and barges—TTB allows a label containing the information required by TTB to be securely attached to the route board or another equivalent device. TTB would not object to bulk conveyances of articles or C.D.A. having a label in a manner consistent with § 19.495.

- *ADM comment:* ADM opposed the addition to the regulations of specifications for five new denaturants (high octane denaturant blend, at § 21.112c; naphtha, at § 21.118b; natural gasoline, at § 21.118c; raffinate, at § 21.124a; and straight run gasoline, at § 21.130a) for use in fuel ethanol. ADM asserted that, because of the specific nature of some of the analytical requirements listed with those denaturants, it is not clear that they are commercially available. ADM stated that denaturants listed in the regulations should be available to all industry members. In addition, ADM requested that if TTB finds it necessary to list denaturant specifications, TTB publish them someplace other than in the regulations, asserting that it is easier to change another type of publication than it is the regulations.

TTB response: Industry members may, under 27 CFR 21.91, request that TTB authorize substitute denaturants. To approve a material as a denaturant for a denatured alcohol formula, TTB must determine that (1) the proposed material, when added to spirits (ethanol), makes the ethanol “unfit for beverage or internal human medicinal use;” (2) the use of the proposed material as a substitute denaturant will be adequate to protect the Federal excise tax revenue; and (3) the proposed material is suitable for the intended use. If the material meets these criteria, TTB will authorize the use of the material as a denaturant in making specified C.D.A. or S.D.S. formulations so that the requestor and any other interested industry members may use the material as a denaturant. In order to provide more flexibility to industry, TTB believes that it is appropriate to authorize use of denaturants that meet the criteria. We do not specify as a criterion that the denaturant must be widely available in the commercial market.

However, if an industry member believes that TTB should deauthorize a particular denaturant, we will consider, based on the criteria stated above, a petition submitted by any interested person stating the reasons it believes authorization is not appropriate.

Furthermore, the specification of a denaturant in the regulations does not foreclose any interested person from applying for an alternate method or procedure or any denaturer from requesting authorization to use other denaturants.

Regarding ADM's comment about publishing the requirements someplace other than in the TTB regulations, we recognize that rulemaking can sometimes be a lengthy process. However, TTB's current practice provides the public with a chance for notice and comment on the proposed requirements. After such notice and comment is given, the appropriate vehicle for codification is publication in the Code of Federal Regulations.

- *ADM comment:* ADM requested that TTB (1) recognize consensus specifications and test methods, such as those maintained by ASTM International ("ASTM"), whenever possible, for the denaturants listed in part 21, and (2) encourage and participate in a stakeholder effort to develop such standards if a consensus standard does not exist for a commercially available denaturant. During the comment period, two commenters, ADM and Videojet, noted that a particular consensus standard appearing in the regulations is obsolete. Thus, they recommended that, if TTB cites a consensus standard, the specific version of the consensus standard not be included in the citation, because standards are issued, updated, and withdrawn on a continual basis. ADM provided as an example the denaturant specifications for unleaded gasoline, as set out in 27 CFR 21.110, which cite ASTM Standard D439-79, but which has been withdrawn by ASTM. ADM asserted that TTB should update this reference.

TTB response: TTB uses consensus standards when appropriate and practicable for the Bureau's purpose. When incorporating in regulations a consensus standard by reference, a Federal agency must specifically identify the incorporated materials and is prohibited from incorporating material dynamically. As specified in 1 CFR 51.1(f), "[i]ncorporation by reference of a publication is limited to the edition of the publication that is approved."

TTB agrees that § 21.110 should be amended. Moreover, TTB is undertaking a comprehensive review of all the standards incorporated by reference in part 21 to ensure that TTB regulations cite to the current version of the referenced materials. TTB has determined that it is appropriate to make revisions to 27 CFR 21.6,

Incorporations by reference, and other sections in part 21 that include incorporations by reference, not only to update the consensus standard references but also to ensure compliance with the Office of the **Federal Register's** rules in 1 CFR part 5, which were recently revised. See 79 FR 66267, November 7, 2014. Accordingly, TTB will engage in a separate rulemaking to update § 21.6 and the standards incorporated by reference into part 21, including the ASTM standard for unleaded gasoline set forth in 27 CFR 21.110.

- *ADM comment:* Finally, ADM stated its support for TTB's consideration of harmonization of the regulations governing C.D.A. Formula No. 20 and the regulations governing fuel ethanol.

TTB response: TTB will continue to consider such harmonization for a future rulemaking with some other proposed changes to the regulations governing alcohol fuel plants, which are found in 27 CFR part 19, subpart X.

Comment 2

Loren Lowy, an individual who works in industry, expressed support for TTB's designation of S.D.A. Formula No. 3-A as an S.D.A. formulation that is appropriate for the new general-use formula in new § 20.120, because it will ease the regulatory burden on industry by removing the requirement for article formula approval on TTB Form 5150.19 for articles made with formulations of S.D.A. 3-A. He also expressed support for TTB's revision to § 20.63 to expand the adoption of formulas by parent or subsidiary corporations.

Lowy also noted a conflict between the proposed new general-use formula in new § 20.120 and the treatment of reagent alcohol in the proposed revision to § 20.117. Specifically, Lowy explained that there is a contradiction because, under the proposed § 20.120, an article formula is not required for any article made with formulations of S.D.A. 3-A. However, under the proposed § 20.117, reagent alcohol—which is made with 95 parts (by volume) of S.D.A. 3-A, and 5 parts (by volume) of isopropyl alcohol—is to be treated as S.D.A. unless distributed and used in accordance with that section.

Lowy also posed the following questions regarding the treatment as S.D.A. of reagent alcohol that is not distributed and used in accordance with the proposed revised § 20.117:

- Whether reagent alcohol in manufacturing would be included in the annual S.D.A. usage report;
- If so, whether it would be a separate entry from the S.D.A.;

- Whether the report form would change to reflect any necessary separate entries; and

- Whether the total volume of reagent alcohol should be reported or just the S.D.A. 3-A portion of the reagent alcohol.

TTB response: The new multi-purpose general-use formula specified in § 20.120 requires that any article made pursuant to that general-use formula contain sufficient additional ingredients to definitely change the composition and character of the S.D.A. used to make the article in question, and to ensure that the finished article is unfit for beverage or other internal human use and cannot be reclaimed or diverted to beverage use. Reagent alcohol does not contain such sufficient additional ingredients, and so the multi-purpose general-use formula is not applicable. Therefore, TTB is adding paragraph (d) to § 20.120 to provide that the multi-purpose general-use formula may not be used for the production of any articles that conform to another general-use formula in part 20, subpart F. This clarification will prevent any other article that is subject to restrictions in another general-use formula from being manufactured or distributed under the multi-purpose general-use formula without being subject to the restrictions of the other general-use formula.

In response to the commenter's additional questions, TTB notes that reagent alcohol used in manufacturing should be included in the annual S.D.A. usage report. Because reagent alcohol used in manufacturing is to be treated as S.D.A., it would not be a separate entry from S.D.A. Thus, the report will not be changed. Again, because reagent alcohol used in manufacturing is to be treated as S.D.A., the total volume of reagent alcohol should be reported in the annual S.D.A. usage report.

Comment 3a

Videojet disagreed with the new definition of "Fit for beverage use, or fit for beverage purposes" in § 20.11, in that it states that the determination of fitness or unfitness for beverage use would be "based solely on the composition of the product and without regard to extraneous factors such as price, labeling, or advertising." Accordingly, Videojet requested that TTB remove that portion of the definition. Videojet asserted that labeling is definitive because it communicates the intended use of each formulation, that consumer use is prohibited, and, in some cases, it indicates whether a product is poisonous or hazardous to health.

TTB response: With limited exceptions, spirits that are fit for beverage use are subject to Federal excise tax. Reliance on product labeling, rather than product composition, in determining unfitness for beverage use could create a significant jeopardy to the revenue. It would be possible to evade payment of excise taxes due on distilled spirits by labeling the spirits as not intended for beverage use, and then diverting them to beverage use. Accordingly, to protect the revenue, TTB will finalize the definition of “Fit for beverage use, or fit for beverage purposes” as proposed in Notice No. 136, which states that the determination of fitness or unfitness will be “based solely on the composition of the product and without regard to extraneous factors such as price, labeling, or advertising.”

Comment 3b

Videojet’s next comment related to TTB’s clarification of § 20.95, concerning developmental samples of articles. Videojet first noted an inconsistency in the proposed text, where it limits the number of samples to one per customer, but requires that a record of the number of samples sent to each customer be kept. Videojet explained that a product test may require more than one container of an article (like a printer cartridge filled with ink), which would exceed the limitation in § 20.95 that only one sample of each formulation may be sent to each customer. Videojet also explained that customers often prefer a two-stage approval process for testing a product, which would exceed the limitation in § 20.95 that samples be sent on a one-time basis.

TTB response: TTB will retain the limitation of one sample per customer and authorize that samples may only be sent on a one-time basis, to ensure protection of the revenue. Allowing manufacturers to send an unlimited number of samples to customers multiple times would effectively allow manufacturers to distribute articles for which there is no formula approval. Since many articles will be able to be produced under a general-use formula and would not require formula approval on TTB Form 5150.19, this limitation will not affect many articles. In addition, where articles cannot be produced in accordance with a general-use formula, manufacturers may send unlimited numbers of samples if they first obtain formula approval on TTB Form 5150.19. However, TTB is removing from § 20.95 the requirement that a record of the number of samples sent to each customer be kept, since that number will not exceed one.

Comment 3c

Videojet had several detailed comments about TTB’s proposed revisions to § 20.115 and proposed new §§ 20.124 and 20.120, as follows:

- *Videojet comment:* Videojet noted an apparent typographical error in the proposed revision to § 20.115, which in Notice No. 136 was proposed to say that the “ink general-use formula authorizes the production of any finished article made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3–A, 3–C, 13–A, 23–A, 30, or 32, or which . . . [c]ontains pigments, dyes, or dyestuffs sufficient to ensure that the article is unfit for beverage use”

TTB response: The second use of the word “or” in the proposed regulation was a typographical error, which TTB is correcting in this final rule.

- *Videojet comment:* Videojet asked that the TTB expand the list of S.D.A. formulations that are specified in the ink general-use formula in section 20.115, to include S.D.A. Formula Nos. 35–A, 40–B, and 45. Videojet also asked that TTB add the use code for inks (use code 052) to §§ 21.62(b)(1), 21.76(b)(1), and 21.80(b)(1), and add references to S.D.A. Formula Nos. 35–A, 40–B, and 45 to the table in § 21.141.

TTB response: TTB has determined that formulations of S.D.A. Formula Nos. 35–A and 40–B would be appropriate in the ink general-use formula in § 20.115, and would not create a threat to the revenue as part of the general-use formula. Because industry members are using formulations of S.D.A. Formula Nos. 35–A and 40–B to manufacture inks, TTB will add references to those formulas to the list of S.D.A. formulations specified in the ink general-use formula in § 20.115. However, TTB has determined that it will not add S.D.A. Formula No. 45 to the general-use formula because that formula—which specifies the addition of 300 pounds of refined whole or orange shellac to every 100 gallons of alcohol—is not, to TTB’s knowledge, typically used in manufacturing inks, and is currently only authorized for use in manufacturing candy glazes. S.D.A. users may continue to seek approval from TTB to manufacture ink using formulations of S.D.A. Formula No. 45 by filing TTB Form 5150.19.

- *Videojet comment:* As proposed in Notice No. 136, inks manufactured in accordance with the general-use formula specified in § 20.115 would be required to contain “pigments, dyes, or dyestuffs sufficient to ensure that the article is unfit for beverage use.” Videojet noted that although one or more of those

ingredients are present in ink, there are other ingredients that may be present that may serve to further render the ink unfit for beverage use. Accordingly, Videojet asked TTB to require that inks manufactured in accordance with the general-use formula contain “pigments, dyes, or dyestuffs, solvents, or other ingredients sufficient to ensure that the article is unfit for beverage use.”

TTB response: TTB agrees that other ingredients used in manufacturing ink may render the ink unfit for beverage use. However, Videojet’s proposed modification to § 20.115 would allow for an ink to contain no pigments, dyes, or dyestuffs. Accordingly, TTB will modify § 20.115 to require that inks manufactured in accordance with the general-use formula contain “pigments, dyes, or dyestuffs, which, alone or in combination with solvents or other ingredients, are sufficient to ensure that the article is unfit for beverage use.”

- *Videojet comment:* Videojet supported the addition of the duplicating fluid and ink solvent general-use formula in § 20.124, but asked TTB to harmonize the ink general-use formula with the duplicating fluid and ink solvent general-use formula because in some cases ink and ink solvent must be combined in a printer. Specifically, Videojet asked TTB to add S.D.A. 13–A, 23–A, 30, 32, 35–A, 40–B, and 45 to the list of S.D.A. formulations authorized by the duplicating fluid and ink solvent general-use formula.

TTB response: To reduce the compliance burden on S.D.A. users that manufacture duplicating fluids and ink solvents, TTB will add S.D.A. 13–A, 23–A, 30, 32, 35–A, and 40–B to the list of S.D.A. formulations authorized by the duplicating fluid and ink solvent general-use formula. TTB will also add use code 485 (miscellaneous solutions) to §§ 21.41, 21.59, 21.62, and 21.76 to authorize formulations of S.D.A. Formula Nos. 13–A, 32, 35–A, and 40–B in the manufacture of miscellaneous solutions, and will add S.D.A. 13–A, 32, 35–A, and 40–B to the entry for use code 485 in the chart in § 21.141. S.D.A. Formula Nos. 23–A and 30 are already authorized for use in miscellaneous solutions (use code 485). However, TTB has determined not to add S.D.A. Formula No. 45 to the general-use formula because that formula is not, to TTB’s knowledge, typically used in manufacturing duplicating fluids or ink solvents, and is currently only authorized for use in manufacturing candy glazes. S.D.A. users may continue to seek approval from TTB to manufacture ink using formulations of S.D.A. Formula No. 45 by filing TTB Form 5150.19.

• *Videojet comment:* Videojet stated that, while the proposed duplicating fluid and ink solvent general-use formula stipulates specific further denaturants (*n*-propyl acetate, isopropyl alcohol, or methyl alcohol), “it is generally not feasible to add [those] specific solvents to the ink solvent formulation due to the intrinsic connection between the ink formula and the ink solvent formula.” Accordingly, Videojet asked that TTB instead allow for the use of “pigments, dyes, dyestuffs, solvents or other ingredients sufficient to ensure that the article is unfit for beverage use” as an alternative to *n*-propyl acetate, isopropyl alcohol, or methyl alcohol.

TTB response: TTB often receives requests for formula approval that specify the use of *n*-propyl acetate, isopropyl alcohol, or methyl alcohol in duplicating fluids or ink solvents. Therefore, it is feasible for at least some industry members to use those ingredients in duplicating fluids and ink solvents. The duplicating fluid and ink solvent general-use formula also allows the resulting article to contain additional ingredients not specified in the general-use formula, so a manufacturer is not precluded from adding dyes to the solvent. TTB believes that it is appropriate to maintain the requirement that duplicating fluids and ink solvents produced in accordance with the general-use formula contain *n*-propyl acetate alone or in combination with isopropyl alcohol or methyl alcohol. S.D.A. users may still submit requests for formula approval on TTB Form 5150.19 for articles that do not conform to this general-use formula.

• *Videojet comment:* Videojet also asked TTB to add S.D.A. Formula No. 3-C to the general-use formula in § 20.120 because doing so would reduce the regulatory burden on industry and on TTB without threatening the revenue.

TTB response: TTB believes that it would be inappropriate to include S.D.A. Formula No. 3-C in the general purpose general-use formula in § 20.120. The current and proposed general-use formulas that specify S.D.A. 3-C (special industrial solvents, duplicating fluids and ink solvents, ink, and toilet preparations) also specify certain other ingredients to ensure that the resulting article is unfit for beverage use. To ensure adequate protection of the revenue, the Bureau believes it is appropriate to continue reviewing formulas for other articles made with S.D.A. 3-C.

• *Videojet comment:* Videojet next asked TTB to authorize the use of formulations of S.D.A. Formula Nos.

13-A, 19, 32, and 35-A in cleaning solutions.

TTB response: TTB has received no data to support authorizing the use of formulations of S.D.A. Formula Nos. 13-A, 19, 32, and 35-A in cleaning solutions. Since 1991, when TTB began its practice of electronic recordkeeping, no requests have been received for the use of formulations of S.D.A. Formula Nos. 13-A, 19, 32, and 35-A in cleaning solutions, which suggests that industry members are not interested in those formulations for that purpose. However, TTB will consider authorizing those S.D.A. formulations for use in cleaning solutions in the future if TTB receives sufficient information to support doing so.

• *Videojet comment:* Videojet also asked that, in § 20.120, TTB remove the requirement that only additional ingredients other than the denaturants prescribed for the applicable S.D.A. formulas be added to the article to definitely change the composition and character of the S.D.A. used to make the article and to ensure that the finished article is unfit for beverage use.

TTB response: An article that is made by taking an S.D.A. formulation and adding more of the denaturant that was used to make the S.D.A. has the same character and very similar composition of the S.D.A. Additional ingredients used to manufacture an article in accordance with the multi-purpose general-use formula in § 20.120 must substantially change the nature of the S.D.A. Accordingly, TTB will maintain the requirement that an article produced in accordance with the multi-purpose general-use formula contain additional ingredients beyond the denaturant used in the S.D.A.

• *Videojet comment:* Finally, Videojet noted that if an article is manufactured under the general-use formula specified in § 20.120 by combining two S.D.A. formulations and an additional ingredient, the article must conform to a use code that is authorized for both S.D.A. formulations. In contrast, an article that is manufactured by combining one S.D.A. formulation with an intermediate ingredient that is itself comprised of the second S.D.A. formulation and the additional ingredient, the article would only have to conform to a use code that is authorized for the S.D.A. formulation that is not used in the intermediate ingredient.

TTB response: By law (26 U.S.C. 5242), denaturing materials must be suitable for the intended use. To help ensure this, TTB will continue to require that an article made under the multi-purpose general-use formula with

multiple S.D.A. formulations conforms to a use code that is authorized for all of the S.D.A. formulations used. Manufacturers using multiple S.D.A. formulations to produce an article may seek formula approval from TTB on TTB Form 5150.19 if the intended use of the article is not covered by a use code that is authorized for all of the S.D.A. formulations being used. In the case of intermediate articles being used in the manufacture of another article, the intermediate article must be suitable for that intermediate use.

Comment 3d

Videojet also raised some concerns related to other national and international standards, as follows:

• *Videojet comment:* Videojet noted that other Federal agencies, like the Occupational Safety and Health Administration (OSHA), also maintain rules concerning the communication of hazards.

TTB response: TTB is aware that other Federal agencies maintain rules concerning the labeling and handling of certain chemicals, or products that contain certain chemicals. Section 20.136 currently notes that such rules are implemented by the Consumer Product Safety Commission (CPSC), Federal Trade Commission (FTC), and Food and Drug Administration (FDA). The labeling requirements specified in TTB's regulations for articles that would contain methanol if produced in accordance with certain general-use formulas (specifically, the special industrial solvents general-use formula, proprietary solvents general-use formula, reagent alcohol general use formula in §§ 20.112, 20.113, and 20.117, and the proposed duplicating fluid and ink solvent general-use formula in § 20.124) were derived from CPSC requirements found in 16 CFR 1500.14(b)(4). TTB believes that industry will be aided in complying with all applicable labeling regulations if TTB refers in its regulations to the applicable labeling regulations of other Federal agencies. TTB believes that the best approach is to refer to those other applicable Federal labeling requirements in part 20. Accordingly, TTB is revising § 20.136 to reference the labeling regulations of other Federal agencies, and is removing the labeling requirements from §§ 20.112, 20.113, 20.117, and 20.124.

• *Videojet comment:* Videojet also noted that the United Nations (UN) Globally Harmonized System of Classification and Labelling of Chemicals (GHS) uses the acronym “SDS” to refer to “safety data sheet.” Videojet asked TTB to consider whether

TTB's "S.D.S." acronym for "specially denatured spirits" would be confusing given the prevalence of the acronym "SDS" in the UN GHS.

TTB response: Many widely used acronyms abbreviate a term despite being identical to an acronym that abbreviates a different term. Readers can usually determine which term an acronym is abbreviating based on the context in which it is being used. Accordingly, TTB will continue using the abbreviation "S.D.S." for "specially denatured spirits" in its regulations.

Comment 4

RFA made several points in its comment submission. The comments, and TTB's responses, are as follows:

- *RFA comment:* RFA expressed support for TTB's effort toward a future rulemaking that would harmonize the denaturant specifications for C.D.A. Formula No. 20 and fuel alcohol.

TTB response: As stated above in response to ADM's similar comment, TTB will continue to consider such harmonization for a future rulemaking.

- *RFA comment:* RFA, noting the outdated denaturant specifications for unleaded gasoline, recommended that TTB base denaturant specifications on consensus standards, like those developed by ASTM, instead of providing specifications. As mentioned above, RFA also recommended that TTB maintain its list of denaturants and the specifications for those denaturants in a place other than the regulations and update the list as needed, because updating regulations is a lengthy process.

TTB response: As explained above in response to ADM's similar comments, under Federal regulations, a Federal agency must identify the specific version of the consensus standard incorporated by reference into its particular regulations. TTB will engage in a separate rulemaking to update references to outdated consensus standards appearing in part 21.

RFA comment: RFA stated that it is important that denaturant specifications in the TTB regulations represent a commercially available material, and that the authorized denaturants "conform to very stringent requirements of both state and Federal regulations for motor fuels and fuel additives."

TTB response: Regarding commercial availability, as noted above in response to one of ADM's comments, TTB may authorize denaturants that conform to certain specifications upon receipt of a petition. If an industry member believes that TTB should change or deauthorize a particular denaturant or its specifications, the industry member

should submit to TTB a petition for the change that provides information about why TTB should make the change. Regarding conformity with State and Federal regulations for motor fuels and fuel additives, TTB tries to be consistent with other Federal regulations. As this document explains, TTB's statutory authority in regulating denatured alcohol pertains to protecting the Federal excise tax revenue. Accordingly, TTB's determinations will primarily be based on revenue protection considerations. Ultimately, industry members remain responsible for ensuring compliance with State and other Federal regulations.

- *RFA comment:* RFA recommended that TTB remain open to approving denaturants of non-hydrocarbon origin.

TTB response: TTB will consider authorizing denaturants of non-hydrocarbon origin. Under the authority of 27 CFR 21.91, the appropriate TTB officer may, pursuant to written application filed by the denaturer, authorize the use of substitute denaturants if such substitution will not jeopardize the revenue. An industry member who would like TTB to authorize a substitute denaturant should submit a request to TTB for authorization of the denaturant pursuant to § 21.91.

- *RFA comment:* RFA supported the clarification of jurisdiction over imported denatured spirits and fuel alcohol. RFA noted that TTB should provide clarity for the regulatory requirements in support of unfettered transportation and use of fuel alcohol.

TTB response: TTB is adding new § 27.222 to the regulations to help clarify the regulations regarding the importation of denatured spirits. TTB welcomes petitions for additional regulatory changes that industry members feel are needed.

TTB Finding

After careful review of the comments discussed above, TTB is finalizing the proposed amendments, with the adjustments explained above. In addition, TTB is altering some of the section numbers proposed in Notice No. 136 to conform to Office of Federal Register policies. Specifically, proposed §§ 21.21a, 21.94a, 21.105a, 21.105b, 21.106a, 21.108a, 21.112a, 21.112b, 21.112c, 21.115a, 21.115b, 21.118a, 21.118b, 21.118c, 21.121a, 21.124a, and 21.130a are being finalized as 27 CFR 21.26, 21.94-T, 21.105-T1, 21.105-T2, 21.106-T, 21.108-T, 21.112-T1, 21.112-T2, 21.112-T3, 21.115-T1, 21.115-T2, 21.118-T1, 21.118-T2, 21.118-T3, 21.122, 21.124-T, and 21.130-T. Finally, TTB is making a number of

technical corrections to existing regulations, beyond those that were proposed in Notice No. 136. These technical corrections merely update or clarify the application of those provisions and do not change the Bureau's interpretation of any regulation or the requirements of any recordkeeping provision.

- One technical correction concerns the use of S.D.S. in foreign-trade zones. Section 484F of the Customs and Trade Act of 1990, Public Law 101-382, 104 Stat. 706, 710, enacted on August 20, 1990, amended 19 U.S.C. 81c(c) by eliminating the requirement that specially denatured spirits used in a foreign-trade zone come from domestic sources. Accordingly, TTB is amending 27 CFR 19.427 to conform with this statutory change.

- TTB is updating additional OMB control numbers in 27 CFR 20.22, 20.56, 20.57, 20.60, 20.61, 20.62, 20.68, 20.142, 20.149, 20.163, 20.170, 20.171, 20.172, 20.180, 20.192, 20.202, 20.203, 20.212, 20.216, 20.231, 20.232, 20.234, 20.235, 20.251, 20.252, 20.261, 20.262, 20.263, and 20.265 to reflect the change from ATF to TTB.

- TTB is amending 27 CFR 20.11 and 20.20 to clarify that references to "TTB Order 1135.20" are to the most recent version of that order, which is not necessarily the original version.

- Typographical errors are corrected in 27 CFR 20.59, 20.93, 20.100, 20.118, 20.131, 20.163, 21.11, 21.49, 21.64, 21.65, and 21.125.

- In 27 CFR 20.92, the reference to the TTB Bulletin is replaced with a reference to TTB's Web site.

- In 27 CFR 20.112 and 20.113, TTB is replacing the erroneous cross-reference to 27 CFR 21.106 with the correct cross-reference 27 CFR 21.107 for the location of a definition of 85 percent ester content.

- In 27 CFR 20.118, the reference to "Bitrex (THS 839)," which is a registered trade name, has been replaced by the generic term "denatonium benzoate."

- In 27 CFR 20.191, the last sentence is removed, since TTB Publication 5150.5 is no longer available.

- TTB is amending 27 CFR 21.7 and 21.11 to clarify that references to "TTB Order 1135.21" are to the most recent version of that order, which is not necessarily the original version.

- Finally, TTB is updating the abbreviation for "milliliters" in 20.11 and throughout part 21 from "ml" to "mL" to reflect current usage.

Regulatory Analyses and Notices

Executive Order 12866

Certain TTB regulations issued under the IRC, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6) TTB certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rule updates the regulations to align them with current industry practice, clarifies other regulatory provisions, and reduces the regulatory burden on the alcohol industry as well as TTB, resulting in an estimated 80 percent reduction in the number of article formulas submitted to TTB. Thus, the regulatory changes do not create any additional requirements or burdens on small businesses, and are expected to decrease the regulatory burden on industry members, including small entities. Accordingly, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, TTB submitted the notice of proposed rulemaking (Notice No. 136, 78 FR 38628, June 27, 2013) to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on the impact of these regulations. The SBA had no comment on the proposed rule.

Finally, as previously mentioned, TTB is making a number of technical corrections to existing regulations in this rulemaking that were not proposed in Notice No. 136. TTB has determined, in accordance with 5 U.S.C. 553(b)(3)(B) that it is unnecessary and contrary to public interest to follow prior public notice and comment procedures with respect to the technical corrections, and 5 U.S.C 553(b) does not apply.

Paperwork Reduction Act

The collections of information in the regulations contained in this final rule have been previously reviewed and approved by the 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 1513-0011, 1513-0028, 1513-0037, 1513-0061, and 1513-0062. Specific regulatory sections in this final rule that contain collections of information are 27 CFR 19.607, 20.63, 20.95, 20.111, 20.117, 20.133, 20.134, 20.183, 20.193, 20.222, 20.262, 20.263, and 20.264. 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.

Several amendments made in this document reduce information collection burdens. Specifically, certain amendments alter circumstances under which article manufacturers must obtain formula approval using TTB Form 5150.19, Formula and/or Process for Article Made with Specially Denatured Spirits. Information collections associated with Form 5150.19 are currently approved under OMB control number 1513-0011. These amendments reduce required submissions of Form 5150.19, and thus reduce the total burden hours currently estimated for control number 1513-0011 by an estimated 955 burden hours, and an 80 percent reduction in the number of these forms submitted to TTB.

Four categories of amendments will reduce required submissions of Form 5150.19:

- Addition to part 20 of new sections 27 CFR 20.120 through 20.124, setting forth five new general-use formulas covering articles made with 19 different S.D.A. formulations;
- Amended regulations in part 21 that reclassify S.D.A. Formula Nos. 12-A and 35 as C.D.A. formulas;
- Amended 27 CFR 20.113(a) and 20.115, which permit the use of additional S.D.A. formulations in the proprietary solvents general-use formula and ink general-use formula; and
- Amended 27 CFR 20.63, which allows a permittee to adopt, for use at a plant where such use is not specifically approved, one of the permittee's own article formulas previously approved for use at another of the permittee's plants, or to adopt a formula previously approved for a parent or wholly-owned subsidiary.

TTB estimates that, as a result of the amendments, the new annual burden hours will be as follows:

- *Estimated total annual reporting and/or record keeping burden:* 239 hours.
- *Estimated average annual burden hours per respondent:* 0.84 hours.
- *Estimated number of respondents:* 285.
- *Estimated annual frequency of responses:* 1 (one).

One amendment involves an alteration to the information collection currently approved under, OMB control number 1513-0061. The amendment to 27 CFR 20.63 allows a permittee to adopt, for use at a plant where such use is not specifically approved, one of the permittee's own article formulas previously approved for use at another

of the permittee's plants, or to adopt a formula previously approved for a parent or wholly-owned subsidiary. Previous to this rulemaking, permittees could adopt formulas under more limited circumstances by submitting a certificate of adoption to TTB, which is an information collection currently approved under control number 1513-0061. Although TTB estimates that the amendment will increase the number of certificates of adoption submitted to TTB under § 20.63, it also proportionally decreases the number of submissions of Form 5150.19 that would have been required absent the amendment. Since the estimated average annual burden per respondent relating to certificates of adoption approved under control number 1513-0061 is smaller than the average annual burden for Form 5150.19 under control number 1513-0011, the amendment reduces the overall burden on permittees. TTB estimates that, as a result of this amendment, the new annual burden under control number 1513-0061 will be as follows:

- *Estimated total annual reporting and/or record keeping burden:* 1,897 hours.
- *Estimated average annual burden hours per respondent:* 0.5 hours.
- *Estimated number of respondents:* 3,794.
- *Estimated annual frequency of responses:* 1 (one).

Other amendments to regulatory sections that involve collections of information do not impact the burden hours associated with those collections. Proposed amendments to 27 CFR 19.607, 20.95, 20.111, 20.117, 20.133, 20.134, 20.193, 20.222, 20.262, 20.263, and 20.264 neither increase nor decrease information collections because the amendments clarify preexisting regulatory requirements and do not otherwise impose new requirements increasing information collection burdens. New 27 CFR 20.183 allows S.D.S. dealers to export S.D.S. and requires such dealers to complete TTB Form 5100.11. TTB estimated that the amendment would not increase submissions of Form 5100.11 because, although the amendment allows an additional category of persons to export, the amendment is not expected to increase demand for exported S.D.S. Thus, the exporters may be different, but the number of exportations is not expected to change. Since TTB is only including an additional category of persons entitled to export S.D.S., and is not increasing information collection burdens associated with exporting S.D.S., the proposed amendment will not impact currently estimated

information collection burdens. Information collections associated with the amendments described in this paragraph are currently approved under OMB control numbers 1513–0028, 1513–0037, and 1513–0062. TTB estimates the annual burden hours under these control numbers are as follows:

- OMB Control Number 1513–0028:
- *Estimated total annual reporting and/or record keeping burden:* 419 hours.
 - *Estimated average annual burden hours per respondent:* 0.76 hour.
 - *Estimated number of respondents:* 550.
 - *Estimated annual frequency of responses:* 1 (one).
- OMB Control Number 1513–0037:
- *Estimated total annual reporting and/or record keeping burden:* 6,000 hours.
 - *Estimated average annual burden hours per respondent:* 20 hours.
 - *Estimated number of respondents:* 300.
 - *Estimated annual frequency of responses:* 20.
- OMB Control Number 1513–0062:
- *Estimated total annual reporting and/or record keeping burden:* 1 hour.
 - *Estimated number of respondents:* 3,430.
 - *Estimated annual frequency of responses:* 1 (one).
- TTB received no comments about the information collections approved under OMB control numbers 1513–0011, 1513–0028, 1513–0037, 1513–0061, and 1513–0062 in response to Notice No. 136.

Drafting Information

Karen E. Welch of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects in 27 CFR

Part 19

Caribbean Basin Initiative, Claims, Electronic funds transfer, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packages and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Part 21

Alcohol and alcoholic beverages, Incorporation by reference.

Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

Part 28

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, and Wine.

Amendments to the Regulations

For the reasons discussed in the preamble, TTB amends 27 CFR parts 19, 20, 21, 27, and 28 as follows:

PART 19—DISTILLED SPIRITS PLANTS

■ 1. The authority citation for part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5114, 5121–5124, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. Section 19.412 is added under the undesignated center heading “Receipt of Spirits from Customs Custody” to read as follows:

§ 19.412 Importation of denatured spirits.

For provisions relating to the importation of denatured spirits, see § 27.222 of this chapter.

■ 3. In § 19.427, paragraph (a)(2) is revised to read as follows:

§ 19.427 Removal of denatured spirits and articles.

(a) * * *

(2) A proprietor may transfer specially denatured spirits to qualified users located in a foreign trade zone for use in the manufacture of articles under part 20 of this chapter.

* * * * *

■ 4. Section 19.607 is revised to read as follows:

§ 19.607 Article manufacture records.

Each processor qualified to manufacture articles must maintain daily manufacturing and disposition records, arranged by the name and authorized Use Code of the article, in

the manner provided in part 20 of this chapter.

■ 5. Section § 19.746 is amended by revising paragraphs (b)(1)(xi) and (b)(1)(xii), adding paragraphs (b)(1)(xiii) through (b)(1)(xvi), and revising paragraph (c) to read as follows:

§ 19.746 Authorized materials.

* * * * *

(b) * * *

(1) * * *

(xi) Naphtha;

(xii) Straight run gasoline;

(xiii) Alkylate;

(xiv) High octane denaturant blend;

(xv) Methyl tertiary butyl ether; or

(xvi) Any combination of the

materials listed in paragraphs (b)(1)(i) through (xv) of this section;

* * * * *

(c) *Specifications.* Specifications for the materials listed in paragraph (b) are found in part 21, subpart E, of this chapter.

* * * * *

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

■ 6. The authority citation for part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

■ 7. Section 20.11 is amended by:

- a. Revising the definition of “Appropriate TTB officer”;
- b. Adding in alphabetical order definitions for “Fit for beverage use, or fit for beverage purposes” and “Internal human use”;
- c. Revising the definition of “Liter or litre”;
- d. Removing the definition of “Specially denatured spirits”;
- e. Adding in alphabetical order a definition for “Specially Denatured Spirits or S.D.S.”
- f. Adding in alphabetical order definitions for “TTB” and “Unfit for beverage use, or unfit for beverage purposes”;
- g. Revising the Office of Management and Budget control number referenced at the end of the section.

The revisions and additions read as follows:

§ 20.11 Meaning of terms.

* * * * *

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by the current version of TTB Order 1135.20, Delegation of the

Administrator's Authorities in 27 CFR part 20, Distribution and Use of Denatured Alcohol and Rum.

* * * * *

Fit for beverage use, or fit for beverage purposes. Suitable for consumption as an alcoholic beverage by a normal person, or susceptible of being made suitable for such consumption merely by dilution with water to an alcoholic strength of 15 percent by volume. The determination is based solely on the composition of the product and without regard to extraneous factors such as price, labeling, or advertising.

* * * * *

Internal human use. Use inside the human body, but not including use only in the mouth where the substance being used is not intended to be swallowed.

* * * * *

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters of alcohol, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. The symbol for milliliter or milliliters is "mL".

* * * * *

Specially Denatured Spirits or S.D.S. Specially denatured alcohol and/or specially denatured rum.

* * * * *

TTB. The Alcohol and Tobacco Tax and Trade Bureau, U.S. Department of the Treasury.

* * * * *

Unfit for beverage use, or unfit for beverage purposes. Not conforming to the definition of "Fit for beverage use, or fit for beverage purposes" in this section.

* * * * *

(Approved by the Office of Management and Budget under control number 1513-0061)

§ 20.20 [Amended]

■ 8. In § 20.20, the second sentence is amended by adding the words "the current version of" immediately before the words "TTB Order 1135.20".

§§ 20.22, 20.56, 20.57, 20.60, 20.61, 20.62, 20.68, 20.142, 20.149, 20.170, 20.171, 20.172, 20.180, 20.192, 20.202, 20.203, 20.212, 20.216, 20.231, 20.232, 20.234, 20.235, 20.251, 20.252, 20.261, 20.262, 20.263, and 20.265 [Amended]

■ 9. For each section indicated in the left-hand column of the table below, the parenthetical phrase at the end of each section is amended by removing the Office of Management and Budget control number indicated in the middle column, and adding, in its place, the number indicated in the right-hand column:

Section	Remove	Add
20.22	1512-0336	1513-0061
20.56	1512-0336	1513-0061
20.57	1512-0336	1513-0061
20.60	1512-0336	1513-0061
20.61	1512-0336	1513-0061
20.62	1512-0336	1513-0061
20.68	1512-0336	1513-0061
20.142	1512-0337	1513-0062
20.149	1512-0337	1513-0062
20.170	1512-0337	1513-0062
20.171	1512-0337	1513-0062
20.172	1512-0337	1513-0062
20.180	1512-0337	1513-0062
20.192	1512-0337	1513-0062
20.202	1512-0336	1513-0061
"	1512-0337	1513-0062
20.203	1512-0337	1513-0062
20.212	1512-0337	1513-0062
20.216	1512-0337	1513-0062
20.231	1512-0337	1513-0062
20.232	1512-0337	1513-0062
20.234	1512-0336	1513-0061
20.235	1512-0337	1513-0062
20.251	1512-0337	1513-0062
20.252	1512-0336	1513-0061
20.261	1512-0337	1513-0062
20.262	1512-0337	1513-0062
20.263	1512-0337	1513-0062
20.265	1512-0336	1513-0061

■ 10. In § 20.41, paragraph (d)(1) is revised to read as follows:

§ 20.41 Application for industrial alcohol user permit.

* * * * *

(d) *Exceptions.* (1) The proprietor of a distilled spirits plant qualified under part 19 of this chapter is not required to qualify under this part for activities conducted at that plant's bonded premises.

* * * * *

§ 20.59 [Amended]

■ 11. In § 20.59, paragraph (a) is amended by removing the word "terminated" and adding, in its place, the word "terminated".

■ 12. Section 20.63 is revised to read as follows:

§ 20.63 Adoption of formulas and statements of process.

(a) Adoption of formulas and statements of process is permitted:

(1) When a successor (proprietorship or fiduciary) adopts a predecessor's formulas and statements of process as provided in §§ 20.57(c) and 20.58; and

(2) When a permittee adopts for use at one plant, the formulas previously approved by TTB for use at another plant, or when a permittee adopts a formula previously approved by TTB for a parent or subsidiary, provided that in the case of a parent-subsidiary relationship the subsidiary is wholly-owned by the parent.

(b) The adoption will be accomplished by the submission of a certificate of adoption. The certificate of adoption shall be submitted to the appropriate TTB officer and shall contain:

(1) A list of all approved formulas or statements of process in which S.D.S. is used or recovered;

(2) The formulas of S.D.S. used or recovered;

(3) The dates of approval of the relevant Forms 1479-A or TTB Forms 5150.19;

(4) The applicable code number(s) for the article or process;

(5) The name of the permittee adopting the formulas, followed by the phrase, for each formula, "Formula of ___ (Name and permit number of permittee who received formula approval) is hereby adopted;" and

(6) In the case of a permittee adopting the formulas of another entity, evidence of its relationship to that entity.

(Approved by the Office of Management and Budget under control number 1513-0061)

§ 20.91 [Amended]

■ 13. In § 20.91, paragraph (a) is amended by removing the words "in the TTB Bulletin" and adding, in their place, the words "on the TTB Web site at <https://www.ttb.gov>".

■ 14. In § 20.93, paragraph (a) is amended by removing the word "approved" and adding, in its place, the word "approved".

■ 15. Section 20.95 is revised to read as follows:

§ 20.95 Developmental samples of articles.

(a) *Samples for submission to TTB.* Prior to receiving formula approval on TTB Form 5150.19, a user may use S.D.S. in the manufacture of samples of articles for submission in accordance with § 20.92. However, the user may only use the limited quantity of S.D.S. that is necessary to produce the samples.

(b) *Samples for shipment to prospective customers.* Prior to submitting a formula and statement of process on TTB Form 5150.19, a user may use S.D.S. to prepare developmental samples of articles for shipment to prospective customers. Only one sample of each formulation of the article under development may be sent to each customer. Each sample shall be no larger than necessary for the customer to determine whether the product meets its requirements. The user shall maintain records showing:

(1) The types of product samples prepared;

(2) The size of the samples sent, on a one-time basis, to each prospective customer; and

(3) The names and addresses of the prospective customers.

(c) *Formula requirement.* Before the user begins to make a quantity greater than specified in this section, formula approval on TTB Form 5150.19 is required.

(Approved by the Office of Management and Budget under control number 1513-0062)

§ 20.100 [Amended]

■ 16. In § 20.100, paragraph (a) is amended by removing the word “addition” and adding, in its place, the word “addition”.

■ 17. Section 20.102 is revised to read as follows:

§ 20.102 Bay rum, alcoholado, or alcoholado-type toilet waters.

Unless manufactured exclusively for export under a formula approved by TTB and endorsed “For Export Only,” bay rum, alcoholado, or alcoholado-type toilet waters made with S.D.S. shall contain in each gallon of finished product:

(a) 71 milligrams of denatonium benzoate (also known as benzyldiethyl (2:6-xylylcarbamoyl methyl) ammonium benzoate) in addition to any of this material used as a denaturant in the specially denatured alcohol;

(b) 2 grams of tartar emetic; or

(c) 0.5 avoirdupois ounce of sucrose octaacetate.

§ 20.103 [Removed and Reserved]

■ 18. Section 20.103 is removed and reserved.

■ 19. Section 20.111 is amended by revising paragraph (a), adding a new paragraph (c), and revising the Office of Management and Budget control number referenced at the end of the section, to read as follows:

§ 20.111 General.

(a) Formula approval obtained on TTB Form 5150.19 is not required for an article made in accordance with any approved general-use formula that is specified in §§ 20.112 through 20.124, that is approved by the appropriate TTB officer as an alternate method, or that is published as a TTB Ruling on the TTB Web site at <https://www.ttb.gov>. However, a statement of process on TTB Form 5150.19 is still required in any of the circumstances described in § 20.94.

(c) The manufacturer shall ensure that each finished article made pursuant to a general-use formula is unfit for beverage use and is incapable of being

reclaimed or diverted to beverage use or internal human use.

(Approved by the Office of Management and Budget under control number 1513-0061)

§ 20.112 [Amended]

■ 20-21. Section 20.112 is amended by:

■ a. In the last sentence of paragraph (a) introductory text, removing the word “alcohol” and adding, in its place, the letters “S.D.A.”;

■ b. In paragraph (a)(1) by adding the words “propylene glycol monomethyl ether,” after the words “nitropropane (mixed isomers),”; and

■ c. In paragraph (a)(2) is amended by removing the cross-reference to “§ 21.106” and adding, in its place, the cross-reference “§ 21.107”.; and

■ d. Removing paragraph (c).

■ 22. Section 20.113 is revised to read as follows:

§ 20.113 Proprietary solvents general-use formula.

A proprietary solvent made pursuant to this formula shall be made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3-A, or 3-C and shall contain, for every 100 parts (by volume) of S.D.A.:

(a) No less than 1 part (by volume) of one or any combination of the following: Gasoline, unleaded gasoline, heptane, or rubber hydrocarbon solvent, and

(b) No less than 3 parts (by volume) of one or any combination of the following: Ethyl acetate (equivalent to 85 percent ester content, as defined in § 21.107 of this chapter), methyl isobutyl ketone, methyl n-butyl ketone, tert-butyl alcohol, sec-butyl alcohol, nitropropane (mixed isomers), ethylene glycol monoethyl ether, or toluene.

■ 23. In § 20.114, the introductory text and paragraph (a) are revised to read as follows:

§ 20.114 Tobacco flavor general-use formula.

This tobacco flavor general-use formula authorizes the production of any finished article made with alcohol denatured in accordance with S.D.A. Formula No. 4 or S.D.R. Formula No. 4 which—

(a) Contains flavors sufficient to ensure that the article is unfit for beverage or internal human use,

* * * * *

■ 24. In § 20.115, the introductory text and paragraph (a) are revised to read as follows:

§ 20.115 Ink general-use formula.

This ink general-use formula authorizes the production of any

finished article made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3-A, 3-C, 13-A, 23-A, 30, 32, 35-A, or 40-B, which—

(a) Contains pigments, dyes, or dyestuffs, which, alone or in combination with solvents or other ingredients, are sufficient to ensure that the article is unfit for beverage use,

* * * * *

■ 25. Section 20.116 is revised to read as follows:

§ 20.116 Low alcohol general-use formula.

This low alcohol general-use formula authorizes the production of any finished article containing not more than 5 percent alcohol by weight or volume. Articles containing no alcohol, or whose manufacture involves the recovery of S.D.S., shall be covered by a statement of process on TTB Form 5150.19 submitted under § 20.94.

■ 26. Section 20.117 is revised to read as follows:

§ 20.117 Reagent alcohol general-use formula.

(a) *General.* Reagent alcohol must be made in accordance with paragraph (b) of this section and labeled in accordance with paragraph (c) of this section. Reagent alcohol is—

(1) Treated as an article if distributed and used in accordance with paragraph (d) of this section; or

(2) Treated as S.D.A. if distributed and used in accordance with paragraph (e) of this section.

(b) *Formula.* Reagent alcohol shall be made with 95 parts (by volume) of S.D.A. 3-A, and 5 parts (by volume) of isopropyl alcohol. Water may be added at the time of manufacture. Reagent alcohol shall not contain any ingredient other than those specified in this paragraph.

(c) *Labeling.* Each container of reagent alcohol, regardless of size, shall have affixed to it a label containing the following words that are as conspicuous as any other words on the container labels: “Reagent Alcohol: Specially Denatured Alcohol Formula 3-A, 95 parts by vol.; and Isopropyl Alcohol, 5 parts by vol.” If water is added at the time of manufacture, the label shall specify the composition of the product as diluted.

(d) *Distribution and use of reagent alcohol as an article.* Reagent alcohol is treated as an article if distributed exclusively for the purpose of scientific use. Only the following distributions of reagent alcohol are permitted under this paragraph:

(1) *For scientific use.* (i) In smaller containers. The manufacturer or repackager of the reagent alcohol, or an

S.D.S. dealer, may distribute reagent alcohol in containers not exceeding four liters to laboratories or other persons who require reagent alcohol for scientific use.

(ii) *In bulk containers.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers larger than four liters to a laboratory or other person requiring reagent alcohol for scientific use if that laboratory or person is qualified to receive bulk shipments of reagent alcohol on October 31, 2016 or has received, from the appropriate TTB officer, approval of a letterhead application containing the following information:

(A) The applicant's name, address, and permit number, if any;

(B) An explanation of the applicant's need for bulk quantities of reagent alcohol;

(C) A description of the security measures that will be taken to segregate reagent alcohol from denatured spirits or other alcohol that may be on the same premises; and

(D) A statement that the applicant will allow any appropriate TTB officer to inspect the applicant's premises.

(2) *For repackaging.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers larger than 4 liters to the persons specified in this paragraph. Those persons must repackage the reagent alcohol in containers not exceeding 4 liters, label the smaller packages in accordance with paragraph (c) of this section, and redistribute them in accordance with paragraph (d)(1)(i) of this section. The persons to whom reagent alcohol may be distributed in bulk for repackaging under this paragraph are:

(i) A proprietor of a bona fide laboratory supply house; and

(ii) Any other person who was qualified to receive bulk shipments of reagent alcohol on October 31, 2016, or who has received, from the appropriate TTB officer, approval of a letterhead application containing all of the information required by paragraph (d)(1)(ii)(A) through (D), in addition to the following:

(A) A statement that the applicant will comply with the labeling, packaging, and distribution requirements of paragraphs (c) and (d)(1) of this section; and

(B) A statement that the applicant will comply with the requirements of § 20.133.

(3) *For redistribution.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers of any size to an

S.D.S. dealer for redistribution in accordance with this section. An S.D.S. dealer distributing or redistributing reagent alcohol may repackage it in containers of any size permitted under this section that is necessary for the conduct of business.

(e) *Distribution and use of reagent alcohol in manufacturing.* Reagent alcohol is treated as S.D.A. if distributed for the purpose of manufacturing. The following requirements apply to reagent alcohol treated as S.D.A.:

(1) The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers of any size to the persons specified in this paragraph for use in manufacturing.

(2) A person may receive reagent alcohol for use in manufacturing if the person:

(i) Holds a permit as an S.D.A. user;

(ii) Has received formula approval on TTB Form 5150.19 to use reagent alcohol in manufacturing; and

(iii) Treats the reagent alcohol as S.D.A., not an article.

(Approved by the Office of Management and Budget under control number 1513-0061)

§ 20.118 [Amended]

■ 27. Section 20.118(b) is amended by:

■ a. In Formula A, removing the word “odorous” and adding, in its place, the word “odorous”; and

■ b. In Formula B, removing the term “(Bitrex (THS-839))” and adding, in its place, the term “(denatonium benzoate)”.

§ 20.119 [Amended]

■ 28. In § 20.119, the introductory text is amended by:

■ a. Removing the words “shall consist of” and adding, in their place, the word “describes”; and

■ b. Removing the word “formula” the second time it appears and adding, in its place, the word “formulation”.

■ 29. In subpart F, add §§ 20.120 through 20.124 to read as follows:

Subpart F—Formulas and Statements of Process

* * * * *

Sec.

20.120 Multi-purpose general-use formula.

20.121 Vinegar general-use formula.

20.122 S.D.A. 39-C general-use formula.

20.123 Pressurized container general-use formula.

20.124 Duplicating fluid and ink solvent general-use formula.

§ 20.120 Multi-purpose general-use formula.

TTB authorizes this general-use formula for the manufacture of any article that:

(a) Is made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3-A, 13-A, 19, 23-A, 23-H, 30, 32, 35-A, 36, 37, 38-D, 40, 40-A, and/or 40-B, but no other specially denatured spirits formula;

(b) Conforms to one of the Use Codes specified in part 21 of this chapter authorized for the S.D.A. formulation(s) being used to make the article, other than Use Code 900, as described in part 21 of this chapter; and

(c) Contains sufficient additional ingredients, other than the denaturants prescribed for the applicable S.D.A. formula(s) —

(1) To definitely change the composition and character of the S.D.A. used to make the article, and

(2) To ensure that the finished article is unfit for beverage or other internal human use, and, unless approved under § 20.193(b), is incapable of being reclaimed or diverted to beverage use or internal human use; and

(d) Does not conform to any other general-use formula provided in subpart F of this part.

§ 20.121 Vinegar general-use formula.

The vinegar general-use formula is a formula for making vinegar with alcohol denatured in accordance with S.D.A. Formula No. 18 in a process whereby all of the ethyl alcohol, except residual alcohol within the limit specified in § 20.104, loses its identity by being converted to vinegar.

§ 20.122 S.D.A. 39-C general-use formula.

S.D.A. 39-C general-use formula is a formula for articles made with alcohol denatured in accordance with S.D.A. Formula No. 39-C. Articles made pursuant to this general-use formula shall contain, in each gallon of finished product, not less than 2 fl. oz. of perfume material (essential oils as defined in § 21.11, isolates, aromatic chemicals, etc.). Unless approved with the endorsement “for export only,” all articles made with alcohol denatured in accordance with S.D.A. Formula No. 39-C must be made in accordance with this formula.

§ 20.123 Pressurized container general-use formula.

This general-use formula describes an article, made with alcohol denatured in accordance with S.D.A. Formula No. 40-C, that will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form.

§ 20.124 Duplicating fluid and ink solvent general-use formula.

(a) Duplicating fluids and ink solvents under this general-use formula shall be made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3-A, 3-C, 13-A, 23-A, 30, 32, 35-A, or 40-B, and

(1) Shall contain, for every 100 parts (by volume) of denatured alcohol:

(i) No less than 1 part (by volume) of *n*-propyl acetate, and no less than 10 parts (by volume) of one or any combination of isopropyl alcohol or methyl alcohol; or

(ii) No less than 5 parts (by volume) of *n*-propyl acetate; and

(2) May contain additional ingredients.

(b) Duplicating fluids and ink solvents are intended for use in the printing industry, shall not be sold for general solvent use, and shall not be distributed through retail channels for sale as consumer commodities for personal or household use.

§ 20.131 [Amended]

■ 30. In § 20.131, the second sentence is amended by adding the word “in” after the words “general terms”.

■ 31. Section 20.132 is amended by adding a new paragraph (d) to read as follows:

§ 20.132 General requirements.

* * * * *

(d) *Analytical tolerance.* In the case of an article manufactured in accordance with a formula that specifies exact amounts of ingredients, including denatured spirits, TTB will apply an analytical tolerance of $\pm 5\%$ and use standard rounding rules in determining whether the article complies with the formula.

■ 32. In § 20.133, paragraph (b) is revised, paragraph (c) is added, and the Office of Management and Budget control number referenced at the end of the section is revised to read as follows:

§ 20.133 Registration of persons trafficking in articles.

* * * * *

(b) A person who reprocesses articles shall ensure that each article containing 0.5 percent or more alcohol by weight or volume is unfit for beverage or internal human use and is incapable of being reclaimed or diverted to beverage use or internal human use.

(c) The appropriate TTB officer will prohibit any of the activities described in paragraph (a) of this section if the activity jeopardizes the revenue or increases the burden of administering this part.

(Approved by the Office of Management and Budget under control number 1513-0061)

■ 33. In § 20.134, paragraph (a) and the Office of Management and Budget control number referenced at the end of the section are revised to read as follows:

§ 20.134 Labeling.

(a) *General.* Except as otherwise provided in paragraph (b) or (c) of this section, the immediate container of each article shall, before removal from the manufacturer's premises, bear the following information either directly on the container or on a label securely attached to it:

(1) The name, trade name or brand name of the article; and

(2) The name and address (city and State) of the manufacturer or distributor of the article.

* * * * *

(Approved by the Office of Management and Budget under control number 1513-0061)

■ 34. Section 20.136 is revised to read as follows:

§ 20.136 Labeling regulations of other agencies.

Other Federal agencies have promulgated regulations that may affect the labeling of denatured spirits or articles. Manufacturers are responsible for properly labeling denatured spirits and articles in compliance with all applicable regulations of those other Federal agencies, which may include:

(a) The Consumer Product Safety Commission, which has promulgated regulations to administer the Federal Hazardous Substances Act, which include regulations in 16 CFR chapter II that require warning labels for products containing certain specified substances like methyl alcohol, which is a denaturant in formulations of S.D.A. Formula Nos. 3-A and 30, and is a hazardous substance at levels of 4 percent or more by weight;

(b) The Federal Trade Commission, which has promulgated regulations in 16 CFR chapter I to administer the Fair Packaging and Labeling Act, which affect the packaging and labeling of “consumer commodities” (which generally means products intended for retail sale to an individual for personal or household use);

(c) The Food and Drug Administration, which has promulgated regulations in 21 CFR chapter I to administer the Fair Packaging and Labeling Act (as it applies to drugs, medical devices, or cosmetics) and the Federal Food, Drug and Cosmetic Act; and

(d) The Occupational Safety and Health Administration, which

administers the Occupational Safety and Health Act of 1970 and has promulgated regulations in 29 CFR chapter XVII concerning the communication of hazards.

§ 20.141 [Amended]

■ 35. In § 20.141, paragraph (a) is amended by removing the word “formula” the first time it appears, and adding, in its place, the word “formulation”, and by adding the words “formulations of” after the words “For example,”.

§ 20.163 [Amended]

■ 36. In § 20.163:

■ a. Paragraph (d) is amended by removing the words “of bill or lading” and adding, in their place, the words “or bill of lading”; and

■ b. The parenthetical phrase at the end of the section is amended by removing the Office of Management and Budget control number “1512-0337” and adding, in its place, the number “1513-0062”.

§ 20.170 [Amended]

■ 37. Section 20.170 is amended by removing the word “formula” and adding, in its place, the word “formulation”.

§ 20.175 [Amended]

■ 38. In § 20.175, paragraph (c) is amended by adding to the end of the sentence the words, “except as provided in 26 U.S.C. 5001(a)(4) and (5)”.

■ 39. Section 20.183 is added under the undesignated center heading “Operations by Dealers” to read as follows:

§ 20.183 Exportation of S.D.S.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, a dealer may export S.D.S. that conform to a formula specified in part 21 of this chapter to any country that allows the importation of such spirits. The exporting dealer shall:

(1) For each export shipment, prepare TTB Form 5100.11 in accordance with its instructions as a notice and submit it to the appropriate TTB officer;

(2) Mark each shipping container and case with the words “For Export”;

(3) Export the S.D.S. directly; and

(4) Retain appropriate documentation, such as invoices and bills of lading, as evidence that the denatured spirits were, in fact, exported.

(b) *Exception.* A dealer may not export under paragraph (a) of this section any spirits that conform to Formula No. 3-C, 29, or 38-B.

■ 40. Section 20.189 is amended by revising paragraphs (c) and (d) to read as follows:

§ 20.189 Use of S.D.S.

* * * * *

(c) Unless otherwise authorized by the appropriate TTB officer, each formulation of S.D.S. may be used only for the purposes authorized for that formulation under part 21 of this chapter.

(d) By the use of essential oils and/or chemicals in the manufacture of each article containing 0.5 percent or more alcohol by weight or volume, the manufacturer shall ensure that:

(1) Each finished article is unfit for beverage use; and

(2) Unless approved “for export only” under § 20.193(b), each finished article is incapable of being reclaimed or diverted to beverage use or internal human use.

* * * * *

§ 20.191 [Amended]

■ 41. Section 20.191 is amended by removing the last sentence.

■ 42. Section 20.193 is added to subpart I to read as follows:

§ 20.193 Articles for export.

(a) Articles approved without qualification, including articles made in accordance with one of the general-use formulas in §§ 20.111 through 20.124, may be exported without restriction.

(b) For each article for which the approved formula is endorsed “For Export Only” the manufacturer shall:

(1) Label the immediate container to clearly show that the article is for export (for example, with the words “For export only”, “Not for sale in the United States”, or “Manufactured for sale in _____”);

(2) Mark the shipping containers and cases with the words “For Export”;

(3) Export the article directly; and

(4) Retain appropriate documentation, such as invoices and bills of lading, as evidence that the article was, in fact, exported.

(c) All articles for export shall comply with the applicable requirements of the countries to which they are sent.

■ 43. In § 20.204, paragraph (c) is revised to read as follows:

§ 20.204 Incomplete shipments.

* * * * *

(c) Subject to the limitations for loss prescribed in § 20.202, the shipper (dealer or distilled spirits plant proprietor) shall file a claim for allowance of the entire quantity lost, in the manner provided in that section.

The claim shall include the applicable data required by § 20.205.

■ 44. Section 20.222 is revised to read as follows:

§ 20.222 Destruction.

(a) *Record of destruction.* A permittee who destroys specially denatured spirits or recovered alcohol, or who transfers such material to another entity for destruction, shall prepare a record of destruction, which shall be maintained by the permittee with the records required by subpart P of this part. The record shall identify—

(1) The reason for destruction,

(2) The date, time, location and manner of destruction,

(3) The quantity involved and, if applicable, identification of containers, and

(4) The name of the individual who accomplished or supervised the destruction.

(b) *Destruction by nonpermittees.* In general, the destruction of specially denatured spirits and recovered alcohol shall be performed by a permittee or a distilled spirits plant. However, a nonpermittee may destroy recovered alcoholic material if the material has been determined by the appropriate TTB officer to be equivalent to an article. If the material is not so determined, destruction may only occur on the premises of the manufacturer who recovered the material, a distilled spirits plant, or a dealer permittee.

(Approved by the Office of Management and Budget under control number 1513–0062)

§ 20.262 [Amended]

■ 45. Section 20.262 is amended by removing the word “formula” each place it occurs and adding in its place the word “formulation”.

§ 20.263 [Amended]

■ 46. Section 20.263 is amended by removing the word “formula” each place it occurs and adding in its place the word “formulation”.

■ 47. In § 20.264, paragraphs (a)(1) and (2) are revised, paragraph (a)(4) is added, and the Office of Management and Budget control number referenced at the end of the section is revised to read as follows:

§ 20.264 User’s records and report of products and processes.

(a) *Records.* (1) Each user shall maintain separate accountings of—

(i) The number of gallons of each formulation of new S.D.S. used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter; and

(ii) The number of gallons of each formulation of recovered S.D.S. used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(2) Each user who recovers specially denatured spirits shall maintain separate accountings of the number of gallons of each formulation of specially denatured spirits recovered from each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

* * * * *

(4) Each user who manufactures articles for export subject to § 20.193(b) shall retain the documentation required by § 20.193(b)(4).

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0062)

PART 21—FORMULAS FOR DENATURED ALCOHOL AND RUM

■ 48. The authority citation of part 21 continues to read as follows:

Authority: 5 U.S.C. 552(a), 26 U.S.C. 5242, 7805.

■ 49. Part 21 is amended by removing the abbreviation “ml” each place it occurs within the part and adding, in its place, the abbreviation “mL”.

§ 21.7 [Amended]

■ 50. In § 21.7, the second sentence is amended by adding the words “the current version of” immediately before the words “TTB Order 1135.21”.

§ 21.11 [Amended]

■ 51. In § 21.11:

■ a. The definition of “Appropriate TTB Officer” is amended by adding the words “the current version of” immediately before the words “TTB Order 1135.21”; and

■ b. The definition of “C.D.A.” is amended by removing the word “Completely” and adding, in its place, the word “Completely”.

■ 52. In § 21.21 add paragraph (d) to read as follows:

§ 21.21 General.

* * * * *

(d) TTB will apply an analytical tolerance of ± 5 percent and use standard rounding rules in determining whether completely denatured alcohol complies with the formula prescribed in this subpart (or in accordance with § 21.5).

■ 53. In § 21.24, paragraph (a) is revised to read as follows:

§ 21.24 Formula No. 20.

(a) *Formula.* To every 100 gallons of ethyl alcohol of not less than 195 proof add:

A total of 2.0 gallons of either unleaded gasoline, rubber hydrocarbon solvent, kerosene, deodorized kerosene, alkylate, ethyl tertiary butyl ether, high octane denaturant blend, methyl tertiary butyl ether, naphtha, natural gasoline, raffinate, or any combination of these; or
A total of 5.0 gallons of toluene.

* * * * *

■ 54. In subpart C, § 21.25 is added to read as follows:

§ 21.25 Formula No. 35.

Formula. To every 100 gallons of alcohol of not less than 185 proof add: 29.75 gallons of ethyl acetate having an ester content of 100 percent by weight or the equivalent thereof not to exceed 35 gallons of ethyl acetate with an ester content of not less than 85 percent by weight.

■ 55. In subpart C, § 21.26 is added to read as follows:

§ 21.26 Formula No. 12–A.

Formula. To every 100 gallons of alcohol of not less than 185 proof add:

Five gallons of toluene or 5 gallons of heptane.

■ 56. Section 21.31 is amended by adding paragraph (d) to read as follows:

§ 21.31 General.

* * * * *

(d) *Analytical tolerance.* TTB will apply an analytical tolerance of $\pm 5\%$ and use standard rounding rules in determining whether specially denatured spirits complies with the formula prescribed in this subpart (or in accordance with § 21.5).

■ 57. In § 21.33, paragraph (a) is revised to read as follows:

§ 21.33 Formula No. 2–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One-half gallon of rubber hydrocarbon solvent, 1/2 gallon of toluene, 1/2 gallon of heptane, 1/2 gallon of hexane (mixed isomers), or 1/2 gallon of *n*-hexane.

* * * * *

§ 21.34 [Removed and Reserved]

■ 58. Section 21.34 is removed and reserved.

§ 21.35 [Amended]

■ 59. In § 21.35, paragraph (a) is amended by adding the words “cyclohexane or” before the words “methyl alcohol.”

§ 21.36 [Removed and Reserved]

■ 60. Section 21.36 is removed and reserved.

§§ 21.39 and 21.40 [Removed and Reserved]

■ 61. Sections 21.39 and 21.40 are removed and reserved.

§ 21.41 [Amended]

■ 62. In § 21.41, paragraph (b) is amended by adding the words “485. Miscellaneous solutions.” in appropriate numerical order.

§ 21.42 [Removed and Reserved]

■ 63. Section 21.42 is removed and reserved.

§§ 21.45 and 21.46 [Removed and Reserved]

■ 64. Sections 21.45 and 21.46 are removed and reserved.

§ 21.48 [Removed and Reserved]

■ 65. Section 21.48 is removed and reserved.

§ 21.49 [Amended]

■ 66. In § 21.49, paragraph (b)(1) is amended by removing the word “insectides” from the entry beginning “410” and adding, in its place, the word “insecticides”.

§§ 21.52 through 21.54 [Removed and Reserved]

■ 67. Sections 21.52 through 21.54 are removed and reserved.

§ 21.59 [Amended]

■ 68. In § 21.59, paragraph (b) is amended by adding the words “485. Miscellaneous solutions.” in appropriate numerical order.

§§ 21.60 and 21.61 [Removed and Reserved]

■ 69. Sections 21.60 and 21.61 are removed and reserved.

§ 21.62 [Amended]

■ 70. In § 21.62, paragraph (b)(1) is amended by adding the words “052. Inks.” and “485. Miscellaneous solutions.” in appropriate numerical order.

§ 21.63 [Amended]

■ 71. In § 21.63, paragraph (a) is amended by adding the words “8.75 pounds of potassium hydroxide, on an anhydrous basis;” before the words “or 12.0 pounds of caustic soda;”.

§ 21.64 [Amended]

■ 72. Section 21.64(a) is amended by removing the word “onces” and adding, in its place, the word “ounces”.

§ 21.65 [Amended]

■ 73. In § 21.65, the list in paragraph (a) is amended by adding entries reading “Cornmint oil.”, “Distilled lime oil.”, “L(-)-Carvone.”, “Lemon oil.”, and “Peppermint oil, Terpeneless.”, in appropriate alphabetical order, and paragraph (b)(1) is amended by removing the word “Sterlizing” from the entry beginning “430” and adding, in its place, the word “Sterilizing”.

§ 21.66 [Removed and Reserved]

■ 74. Section 21.66 is removed and reserved.

■ 75. In § 21.68, paragraphs (a)(1) and (2) are revised to read as follows:

§ 21.68 Formula No. 38–F.

(a) * * *

(1) Six pounds of either boric acid, N.F., Polysorbate 80, N.F., or Poloxamer 407, N.F.; 1¹/₃ pounds of thymol, N.F.; 1¹/₃ pounds of chlorothymol, N.F. XII; and 1¹/₃ pounds of menthol, U.S.P.; or

(2) A total of at least 3 pounds of any two or more denaturing materials listed under Formula No. 38–B, plus sufficient boric acid, N.F., Polysorbate 80, N.F., or Poloxamer 407, N.F. to total 10 pounds of denaturant; or

* * * * *

§§ 21.69 and 21.70 [Removed and Reserved]

■ 76. Sections 21.69 and 21.70 are removed and reserved.

§ 21.76 [Amended]

■ 77. In § 21.76, paragraph (b)(1) is amended by adding the words “052. Inks.” and “485. Miscellaneous solutions.” in appropriate numerical order.

§ 21.78 [Removed and Reserved]

■ 78. Section 21.78 is removed and reserved.

§ 21.81 [Removed and Reserved]

■ 79. Section 21.81 is removed and reserved.

§ 21.91 [Amended]

■ 80. Section 21.91 is amended by adding a sentence at the end of the section to read as follows:

§ 21.91 General.

* * * * * The authorization of a substitute denaturant may be published in a TTB Ruling.

■ 81. Section 21.94–T is added to read as follows:

§ 21.94–T Alkylate.

(a) *API gravity at 60 °F.* 70.4.

(b) *Reid vapor pressure (PSI).* 5.60 maximum.

(c) *Distillation (°F):*

(i) *I.B.P.* 109.0.

(ii) *10 percent.* 186.6.

(iii) *50 percent.* 221.1.

(iv) *90 percent.* 271.8.

(v) *End point distillation.* 375.7.

§§ 21.97 and 21.98 [Removed and Reserved]

■ 82. Sections 21.97 and 21.98 are removed and reserved.

§§ 21.103 and 21.104 [Removed and Reserved]

■ 83. Sections 21.103 and 21.104 are removed and reserved.

■ 84. Section 21.105–T1 is added to read as follows:

§ 21.105–T1 Cornmint oil (*Mentha arvensis* and *Mentha canadensis*).

(a) *Specific gravity at 25 °C.* 0.895 to 0.905.

(b) *Refractive index at 20 °C.* 1.4580 to 1.4590.

(c) *Optical rotation at 20 °C.* –18° to –36°.

(d) *Alcohol content (as menthol).* 65 percent minimum.

(e) *Ketone content (as menthone).* 5 percent minimum.

■ 85. Section 21.105–T2 is added to read as follows:

§ 21.105–T2 Cyclohexane.

(a) *Specific gravity at 20 °C.* 0.75 to 0.80.

(b) *Odor.* Characteristic odor.

■ 86. Section 21.106–T is added to read as follows:

§ 21.106–T Distilled lime oil (*Citrus aurantifolia*).

(a) *Specific gravity at 25 °C.* 0.850 to 0.870.

(b) *Refractive index at 20 °C.* 1.4740 to 1.4780.

(c) *Optical rotation at 20 °C.* +30° to +50°.

(d) *Aldehyde content (as citral).* 0.5 to 3.0 percent.

(e) *Terpene content (as limonene).* 45 percent minimum.

■ 87. Section 21.108–T is added to read as follows:

§ 21.108–T Ethyl tertiary butyl ether.

(a) *Purity.* ≥95.0 percent.

(b) *Color.* Colorless to light yellow.

(c) *Odor.* Terpene-like.

(d) *Specific gravity at 20 °C.* 0.70 to 0.80.

(e) *Boiling point (°C).* 73.

§ 21.111 [Removed and Reserved]

■ 88. Section 21.111 is removed and reserved.

■ 89. Section 21.112–T1 is added to read as follows:

§ 21.112–T1 Hexane (mixed isomers).

(a) *General.* Minimum 55 percent *n*-hexane.

(b) *Distillation range.* No distillate should come over below 150 °F and none above 160 °F.

(c) *Odor.* Characteristic odor.

■ 90. Section 21.112–T2 is added to read as follows:

§ 21.112–T2 *n*-Hexane.

(a) *General.* Minimum 97 percent purity.

(b) *Distillation range.* No distillate should come over below 150 °F and none above 160 °F.

(c) *Odor.* Characteristic odor.

■ 91. Section 21.112–T3 is added to read as follows:

§ 21.112–T3 High octane denaturant blend.

(a) *API Gravity at 60 °F.* 40 to 65.

(b) *Reid Vapor Pressure (PSI).* 6 to 15.

(c) *Isopropyl alcohol.* 24 to 40 percent volume.

(d) *Methyl alcohol.* 1.6 to 9.6 percent volume.

(e) *Diisopropyl ether (DIPE).* 4 to 12 percent volume.

(f) *tert-Butyl alcohol.* 4 to 12 percent volume.

(g) *Iso-pentane.* 4 to 9 percent volume.

(h) *Pentane.* 4 to 9 percent volume.

(i) *Pentene.* 0 to 2.4 percent volume.

(j) *Hexane.* 2 to 6 percent volume.

(k) *Heptane.* 1 to 3 percent volume.

(l) *Sulfur (ppm).* 0 to 120.

(m) *Benzene (% vol.).* 0 to 1.1.

(n) *Distillation (°F):*

(i) *10 percent.* 80 to 168.

(ii) *50 percent.* 250.

(iii) *End point distillation.* 437.

■ 92. Section 21.115–T1 is added to read as follows:

§ 21.115–T1 Lemon oil (*Citrus limonium*).

(a) *Specific gravity at 25 °C.* 0.850 to 0.860.

(b) *Refractive index at 20 °C.* 1.4570 to 1.4580.

(c) *Optical rotation at 20 °C.* +55° to +65°.

(d) *Terpene content (as limonene).* 65 percent minimum.

■ 93. Section 21.115–T2 is added to read as follows:

§ 21.115–T2 L(–)-Carvone.

(a) *Specific gravity at 25 °C.* 0.955 to 0.965.

(b) *Refractive index at 20 °C.* 1.495 to 1.500.

(c) *Angular rotation.* –57° to –62°.

(d) *Assay.* Not less than 97.0 percent.

■ 94. Section 21.118–T1 is added to read as follows:

§ 21.118–T1 Methyl tertiary butyl ether.

(a) *Purity.* ≥ 97.0 percent.

(b) *Color.* Clear, colorless.

(c) *Odor.* Turpentine-like.

(d) *Specific Gravity at 20 °C.* 0.70 to 0.80.

(e) *Boiling Point (°C).* 55.

■ 95. Section 21.118–T2 is added to read as follows:

§ 21.118–T2 Naphtha.

(a) *API Gravity at 60 °F.* 30 to 85.

(b) *Reid Vapor Pressure (PSI).* 8 maximum.

(c) *Specific Gravity at 20 °C.* 0.70 to 0.80.

(d) *Distillation (°F):*

(i) *I.B.P.* 85 maximum.

(ii) *10 percent.* 130 maximum.

(iii) *50 percent.* 250 maximum.

(iv) *90 percent.* 340 maximum.

(e) *End point distillation.* 380 maximum.

(f) *Copper corrosion.* One (1).

(g) *Sabolt color.* 28 minimum.

■ 96. Section 21.118–T3 is added to read as follows:

§ 21.118–T3 Natural gasoline.

Natural gasoline is a mixture of various alkanes including butane, pentane, and hexane hydrocarbons extracted from natural gas. It has a distillation range wherein no more than 10 percent by volume of the sample may distill below 97 °F; at least 50 percent by volume shall distill at or below 156 °F; and at least 90 percent by volume shall distill at or below 209 °F.

■ 97. Section 21.121 is revised to read as follows:

§ 21.121 Peppermint oil, Terpeneless.

(a) *Specific gravity at 25 °C.* 0.890 to 0.910.

(b) *Refractive index at 20 °C.* 1.455 to 1.465.

(c) *Esters as menthyl acetate.* 5 percent minimum.

(d) *Menthol (free and esters).* 5 percent minimum.

■ 98. Section 21.122 is revised to read as follows:

§ 21.122 Potassium Hydroxide.

(a) *Color.* White or yellow.

(b) *Specific gravity at 20 °C.* 1.95 to 2.10.

(c) *Melting point.* 360 °C.

(d) *Boiling point.* 1320 °C.

(e) *pH (0.1M solution).* 13.5.

■ 99. Section 21.124–T is added to read as follows:

§ 21.124–T Raffinate.

(a) *API Gravity at 60 °F.* 30 to 85.

(b) *Reid Vapor Pressure (PSI).* 5 to 11.

(c) *Octane (R+M/2).* 66 to 70.

(d) *Distillation (°F):*

(i) *10 percent.* 120 to 150.

(ii) *50 percent.* 144 to 180.

(iii) *90 percent.* 168 to 200.

(iv) *End point distillation.* 216 to 285.

§ 21.125 [Amended]

■ 100. In § 21.125, the first sentence of paragraph (b) is amended by removing the word “themometer” and adding, in its place, the word “thermometer”.

§ 21.128 [Removed and Reserved]

■ 101. Section 21.128 is removed and reserved.

■ 102. Section 21.130–T is added to read as follows:

§ 21.130-T Straight run gasoline.

(a) *General.* Straight run gasoline is a mixture consisting predominantly (greater than 60 percent by volume) of C₄, C₅, C₆, C₇ and/or C₈ hydrocarbons, and is either:

(1) A petroleum distillate coming straight from an atmospheric distillation unit without being cracked or reformed, or

(2) A condensate coming directly from an oil/gas recovery operation.

(b) *API gravity.* 72° minimum, 85° maximum.

(c) *Reid vapor pressure (PSI).* 15 maximum.

(d) *Sulfur.* 120 ppm maximum.

(e) *Benzene.* 1.1 percent by volume maximum.

(f) *Distillation (°F):*

(1) *10 percent.* 97 minimum, 158 maximum.

(2) *50 percent.* 250 maximum.

(3) *Final boiling point.* 437 maximum.

■ 103. Section 21.132 is revised to read as follows:

§ 21.132 Toluene.

(a) *Specific Gravity at 15.56°/15.56 °C.* 0.80 to 0.90.

(b) *Boiling point (°C).* 110.6.

(c) *Distillation range (°C).* Not more than 1 percent by volume should distill below 109, and not less than 99 percent by volume below 112.

(d) *Odor.* Characteristic odor.

■ 104. In § 21.141, the table is amended by:

■ a. Removing the entry for “Antiseptic, bathing solution (restricted)”;

■ b. Removing each reference to “2-C”, “3-B”, “6-B”, “12-A”, “17”, “20”, “22”, “23-F”, “27”, “27-A”, “27-B”, “33”, “35”, “38-C”, “39”, “39-A”, “42”, and “46” in the column headed “Formulas authorized”; and

■ c. Revising the entries for “Inks” and for “Solutions, miscellaneous”.

The revisions read as follows:

§ 21.141 List of products and processes using specially denatured alcohol and rum, and formulas authorized therefor.

* * * * *

Product or process	Code No.	Formulas authorized
Inks	052	1, 3-A, 3-C, 13-A, 23-A, 30, 32, 33, 35-A, 40-B.
Solutions, miscellaneous	485	1, 3-A, 3-C, 13-A, 23-A, 30, 32, 35-A, 40-B, 40-C.

* * * * *

§ 21.151 [Amended]

■ 105. In § 21.151, the table is amended by:

■ a. Removing the entries for “Benzene”; “Bone oil (Dipple’s oil)”;

“Chloroform”; “Cinchonidine”;

“Cinchonidine sulfate, N.F. IX”;

“Gentian violet”; “Gentian violet, U.S.P.”;

“Mercuric iodide, red N.F. XI”;

“Phenyl mercuric benzoate”; “Phenyl mercuric chloride, N.F. IX”;

“Phenyl mercuric nitrate, N.F.”;

“Pine tar, U.S.P.”;

“Pyridine bases”;

“Quassia, fluid extract, N.F. VII”;

“Quinine, N.F. X”;

“Quinine dihydrochloride, N.F. XI”;

“Resorcinol (Resorcin), U.S.P.”;

“Salicylic acid, U.S.P.”;

“Sodium, metallic”; and

“Thimerosal, U.S.P.”;

■ b. Removing each remaining reference to “2-C”, “22”, “23-F”, “27”, “27-A”, “27-B”, “38-C”, “39”, “39-A”, “42”, and “46”; and

■ c. Revising the entries for “Ethyl acetate”, and “Toluene”; and

■ d. Adding entries for “Alkylate”, “Cornmint oil”, “Cyclohexane”, “Distilled lime oil”, “Ethyl tertiary butyl ether”, “Hexane”, “n-Hexane”, “High octane denaturant blend”, “L(-)-Carvone”, “Lemon oil”, “Methyl tertiary butyl ether”, “Naphtha”, “Natural gasoline”, “Peppermint oil, terpeneless.”, “Poloxamer 407 N.F.”, “Potassium hydroxide”, “Raffinate”, and “Straight run gasoline”.

The revisions and additions read as follows:

§ 21.151 List of denaturants authorized for denatured spirits.

Alkylate	C.D.A. 20.
Cornmint oil	S.D.A. 38-B.
Cyclohexane	S.D.A. 3-A.
Distilled lime oil	S.D.A. 38-B.
Ethyl acetate	C.D.A. 35; S.D.A. 29, 35-A.
Ethyl tertiary butyl ether.	C.D.A. 20.
Hexane	S.D.A. 2-B.
n-Hexane	S.D.A. 2-B.
High octane denaturant blend.	C.D.A. 20.
L(-)-Carvone	S.D.A. 38-B.
Lemon oil	S.D.A. 38-B.
Methyl tertiary butyl ether.	C.D.A. 20.
Naphtha	C.D.A. 20.

Natural gasoline	C.D.A. 20.
Peppermint oil, terpeneless.	S.D.A. 38-B.
Poloxamer 407, N.F.	S.D.A. 38-F.
Potassium hydroxide	S.D.A. 36.
Raffinate	C.D.A. 20.
Straight run gasoline	C.D.A. 20.
Toluene	C.D.A. 12-A; S.D.A. 2-B.

§ 21.161 [Amended]

■ 106. In § 21.161, the table is revised by removing the entries for “2-C”, “3-B”, “6-B”, “12-A”, “17”, “20”, “22”, “23-F”, “27”, “27-A”, “27-B”, “33”, “35 3”, “35 4”, “38-C”, “39”, “39-A”, “42”, and “46”.

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 107. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121-5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

■ 108. Section 27.222 is added to read as follows:

§ 27.222 Importation of denatured spirits and fuel alcohol.

Denatured spirits and fuel alcohol are treated as spirits for purposes of this part and are subject to tax pursuant to § 27.40(a). The tax must be paid upon importation, with only two exceptions: Spirits may be withdrawn from customs custody free of tax for the use of the United States under subpart M of this part; and spirits may be withdrawn from customs custody and transferred to a distilled spirits plant, including a bonded alcohol fuel plant, without payment of tax under subpart L of this part. After transfer pursuant to subpart L, denatured spirits or fuel alcohol may be withdrawn free of tax in accordance with part 19 of this chapter if they meet the standards to conform either to a denatured spirits formula specified in part 21 of this chapter (for withdrawal from a regular distilled spirits plant) or a formula specified in § 19.746 of this chapter (for withdrawal from an alcohol fuel plant). Such withdrawal is permitted, even though the denaturation or rendering unfit for beverage use may have occurred, in whole or in part, in a foreign country. For purposes of this chapter, the denaturation or rendering unfit is deemed to have occurred at the distilled spirits plant (including the alcohol fuel plant), the proprietor of which is responsible for compliance with part 21 or § 19.746, as the case may be. Imported fuel alcohol shall also conform to the requirements of 27 CFR 19.742.

PART 28—EXPORTATION OF LIQUORS

■ 109. The authority citation for part 28 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, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205, 44 U.S.C. 3504(h).

■ 110. Section 28.157 is added to read as follows:

§ 28.157 Exportation by dealer in specially denatured spirits.

A dealer in specially denatured spirits who holds a permit under part 20 of this chapter may export specially denatured spirits in accordance with § 20.183 of this chapter.

Signed: July 6, 2016.

John J. Manfreda,
Administrator.

Approved: July 7, 2016.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2510

RIN 1210-AB71

Savings Arrangements Established by States for Non-Governmental Employees

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document describes circumstances in which state payroll deduction savings programs with automatic enrollment would not give rise to the establishment of employee pension benefit plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA). This document provides guidance for states in designing such programs so as to reduce the risk of ERISA preemption of the relevant state laws. This document also provides guidance to private-sector employers that may be covered by such state laws. This rule affects individuals and employers subject to such state laws.

DATES: This rule is effective October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Janet Song, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693-8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Approximately 39 million employees in the United States do not have access to a retirement savings plan through their employers.¹ Even though such employees could set up and contribute

¹ National Compensation Survey, Bureau of Labor Statistics (July 2016), Employee Benefits in the United States—March 2016 (<http://www.bls.gov/news.release/pdf/eb2.pdf>). These data show that 66 percent of 114 million private-sector workers have access to a retirement plan through work. Therefore, 34 percent of 114 million private-sector workers (39 million) do not have access to a retirement plan through work.

to their own individual retirement accounts or annuities (IRAs), the great majority do not save for retirement. In fact, less than 10 percent of all workers contribute to a plan outside of work.²

For older Americans, inadequate retirement savings can mean sacrificing or skimping on food, housing, health care, transportation, and other necessities. In addition, inadequate retirement savings places greater stress on state and federal social welfare programs as guaranteed sources of income and economic security for older Americans. Accordingly, states have a substantial governmental interest to encourage retirement savings in order to protect the economic security of their residents.³ Concern over the low rate of saving among American workers and the lack of access to workplace plans for many of those workers has led some state governments to expand access to savings programs for their residents and other individuals employed in their jurisdictions by creating their own programs and requiring employer participation.⁴

A. State Payroll Deduction Savings Initiatives

One approach some states have taken is to establish state payroll deduction savings programs. Through automatic enrollment such programs encourage employees to establish tax-favored IRAs funded by payroll deductions.⁵ California, Connecticut, Illinois, Maryland, and Oregon, for example, have adopted laws along these lines.⁶ These initiatives generally require certain employers that do not offer workplace savings arrangements to

² See The Pew Charitable Trust, “How States Are Working to Address The Retirement Savings Challenge,” (June 2016) (<http://www.pewtrusts.org/~media/assets/2016/06/howstatesareworkingtoaddresstheretirementsavingschallenge.pdf>).

³ See Christian E. Weller, Ph.D., Nari Rhee, Ph.D., and Carolyn Arcand, “Financial Security Scorecard: A State-by-State Analysis of Economic Pressures Facing Future Retirees,” National Institute on Retirement Security (March 2014) (www.nirsonline.org/index.php?option=com_content&task=view&id=830&Itemid=48).

⁴ See, e.g., Kathleen Kennedy Townsend, Chair, Report of the Governor’s Task Force to Ensure Retirement Security for All Marylanders, “1,000,000 of Our Neighbors at Risk: Improving Retirement Security for Marylanders” (2015).

⁵ These could include individual retirement accounts described in 26 U.S.C. 408(a), individual retirement annuities described in 26 U.S.C. 408(b), and Roth IRAs described in 26 U.S.C. 408A.

⁶ California Secure Choice Retirement Savings Trust Act, Cal. Gov’t Code §§ 100000-100044 (2012); Connecticut Retirement Security Program Act, P.A. 16-29 (2016); Illinois Secure Choice Savings Program Act, 820 Ill. Comp. Stat. 80/1-95 (2015); Maryland Small Business Retirement Savings Program Act, Ch. 324 (H.B. 1378)(2016); Oregon Retirement Savings Board Act, Ch. 557 (H.B. 2960)(2015).