

31, 2016, and beginning before January 1, 2025. Paragraph (c)(5) of this section, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2025.

(4) Paragraph (d)(1)(i) of this section applies to taxable years beginning on or after January 1, 2025. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2016, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2017. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2022, applies to taxable years beginning after December 31, 2016, and beginning before January 1, 2023. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years beginning after December 31, 2022, and beginning before January 1, 2025.

Douglas W. O'Donnell,
Deputy Commissioner.

Approved: December 5, 2024.

Aviva R. Aron-Dine,
Deputy Assistant Secretary of the Treasury
(Tax Policy).

[FR Doc. 2024–29651 Filed 12–17–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 5

[Docket No. TTB–2022–0007; T.D. TTB–199;
Re: Notice No. 213]

RIN 1513–AC88

Addition of American Single Malt Whisky to the Standards of Identity for Distilled Spirits

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

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule amends the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations that set forth the standards of identity for distilled spirits to include “American single malt whisky” as a type of whisky that is produced in the United States and meets certain criteria. TTB proposed the new standard of identity in response to petitions and comments submitted by several distillers and the American Single Malt Whisky Commission. TTB is finalizing the amendments to the regulations to establish the standard of

identity with some changes to reflect comments received.

DATES: This final rule is effective January 19, 2025.

FOR FURTHER INFORMATION CONTACT: Selina M. Ferguson, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–1039.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers regulations regarding the labeling of distilled spirits, which include those setting forth “standards of identity.” The authority to establish these standards is based on section 105(e) of the Federal Alcohol Administration Act (FAA Act),¹ codified in the United States Code at 27 U.S.C. 205(e). That section authorizes the Secretary of the Treasury (the Secretary) to prescribe regulations relating to the “packaging, marking, branding, and labeling” of alcohol beverage containers “as will prohibit deception of the consumer with respect to such products” and “as will provide consumers with adequate information as to the identity and quality of the products.” Section 105(e) of the FAA Act also generally requires bottlers and importers of alcohol beverages to obtain approval of the product labels through certificates of label approval (COLAs) prior to bottling or importing alcohol beverages for sale in interstate commerce.

TTB administers these FAA Act provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated certain administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

Part 5 of title 27 of the Code of Federal Regulations (27 CFR part 5) sets forth the regulations implementing those provisions of section 105(e) of the FAA Act as they pertain to distilled spirits.

Classes and Types of Spirits

The TTB regulations establish standards of identity for distilled spirits products and categorize these products according to various classes and types. See 27 CFR part 5, subpart I. As used in 27 CFR 5.141(a), the term “class”

refers to a general category of spirits. Subpart I sets forth the various classes of distilled spirits and their characteristics. Examples of classes of distilled spirits include “whisky,” “rum,” “gin,” and “brandy.” As used in § 5.141(a), the term “type” refers to a subcategory within a class of spirits. These types generally have additional or more specific characteristics than the class. For example, “Cognac” is a type within the class of brandy, specifically grape brandy distilled exclusively in the Cognac region of France and meeting the laws and regulations of the French government for designation as Cognac. See 27 CFR 5.145(c)(2).

The TTB labeling regulations at 27 CFR 5.63(a)(2) require that the class and type of distilled spirits appear on the product’s label. These regulations provide that the class and type must be stated in conformity with 27 CFR part 5, subpart I, of the TTB regulations.

Current Standards of Identity, Classification of Malt Whisky, and Treatment of Products Labeled as “American Single Malt Whisky”

Current TTB regulations at 27 CFR 5.143(a) set forth the standard of identity for the class whisky. In § 5.143, paragraphs (c)(2) through (18) categorize the specific types of whisky, such as “Bourbon whisky” and “malt whisky.” The current regulations provide standards for identifying whisky as “malt whisky,” at paragraph (c)(2), and “whisky distilled from malt mash,” at paragraph (c)(7), but do not further specify standards for “single malt whisky.” Malt whisky is described as whisky produced at not more than 160° proof from a fermented mash of not less than 51 percent malted barley and stored at not more than 125° proof in charred new oak barrels. Such whisky stored in charred new oak barrels for a period of 2 years or more may optionally be further designated as “straight” malt whisky. See 27 CFR 5.143(c)(5). A “whisky distilled from malt mash” is whisky produced in the United States at not more than 160° proof from a fermented mash of not less than 51 percent malted barley and stored in used oak barrels.

With respect to geographical designators such as “American,” § 5.154(a)(3) provides that geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, may not be used unless the product is produced in the particular place or region indicated in the name. Accordingly, a product currently designated as “American whisky” must be produced in the United States. Additionally, §§ 5.143(b)

¹ Aug. 29, 1935, ch. 814, title I, sec. 101 *et seq.*, formerly sec. 1 *et seq.*, 49 Stat. 977; renumbered title I, sec. 101 *et seq.*, and amended Public Law 100–690, title VIII, Nov. 18, 1988, 102 Stat. 4517.

and 5.154(b)(1) provide that a product designated as “malt whisky” or “American malt whisky” must be produced in the United States.

Products may currently bear the designation “American Single Malt Whisky,” and TTB has approved COLAs with that term, without any additional parameters other than those described above.

American Single Malt Whisky Petitions and Related Comments

In October 2017, TTB received three petitions with similar content from XO Alambic, Remy Cointreau, and Westland Distillery. Each of these petitioners noted that they were filing their petition on behalf of, or with, the American Single Malt Whiskey Commission (ASMWC), an association of at least seventy-five producers of whisky in the United States. In their petitions, the distillers requested the establishment of a standard of identity to define the “American single malt whisky” category for producers and consumers alike. They noted that the American whisky category has been growing over the past decade and continues to expand, and that recognition of American single malt whisky is at an all-time high, with U.S. distillers winning international competitions with products in these categories. They stated that establishment of a standard of identity would benefit consumers, as it would provide a definition for the product, establish trust in the category, clarify label declarations, and equip consumers with the necessary information to make informed decisions so they can have confidence in the products they are choosing to buy in a similar way that Scotch whisky standards provide such information to American consumers. They also believe establishment of a standard of identity would strengthen the U.S. economy by increasing tax revenue related to the sale of American single malt whiskey, and by creating jobs related to producing, distributing, and selling such a product and the ingredients used in this product.

In their petitions, the distillers requested the establishment of a standard of identity for American single malt whisky, defined as a type of whisky that is mashed, matured, and distilled at a single United States distillery, distilled to a proof not exceeding 160° proof from a fermented mash of 100 percent malted barley, stored in oak containers not exceeding a capacity of 700 liters, and bottled at not less than 80° proof.

In 2018, TTB published in the **Federal Register** a notice of proposed

rulemaking (Notice No. 176, 83 FR 60562) proposing to amend its regulations governing the labeling and advertising of wine, distilled spirits, and malt beverages. Although TTB did not include a proposal for an American single malt whisky standard of identity in Notice No. 176, TTB received over 200 comments in support of such a standard. One of these comments was from the ASMWC, who proposed a slightly different standard of identity from the one submitted in the three 2017 petitions. ASMWC’s comment to Notice No. 176 proposed that American single malt whisky should be distilled, mashed, and matured in the United States, but only distillation should be required to take place at a single United States distillery. All other aspects of the standard remained the same as those previously proposed in the petitions from XO Alambic, Remy Cointreau, and Westland Distillery. ASMWC’s comment stated that this standard of identity was supported by more than 130 producers of single malt whisky. In this document, this ASMWC proposal is referred to as the “2018 ASMWC petition.”

Notice of Proposed Rulemaking

On July 29, 2022, TTB published in the **Federal Register** Notice No. 213 (87 FR 45727), “Proposed Addition of American Single Malt Whisky to the Standards of Identity for Distilled Spirits,” which provided notice and the opportunity to comment on the proposed addition of a standard of identity for American single malt whisky to the TTB regulations. Notice No. 213 generally incorporated the standard of identity proposed in the petitions submitted to TTB and comments received on Notice No. 176. Specifically, TTB proposed to define American single malt whisky as a type of whisky that is mashed, distilled, and aged in the United States; is distilled entirely at one U.S. distillery; is distilled to a proof of 160° or less; is distilled from a fermented mash of 100 percent malted barley; is stored in oak barrels (used, uncharred new, or charred new) not exceeding 700 liters; and is bottled at not less than 80° proof.

Comments Received

The comment period for Notice No. 213 closed on September 27, 2022. TTB received 158 comments in response to Notice No. 213. Commenters included 16 U.S. and foreign trade associations, 44 industry members and related companies, and 98 individual members of the public (many of these individuals are part of the distilled spirits industry but submitted their comments only

under their own name). Of the comments received, 73 were submitted separately to TTB but had identical or nearly identical content and are labeled as mass comments as posted on the rulemaking docket. These mass comments stated support for the creation of a standard of identity for American single malt whisky in line with the ASMWC petition.

The vast majority of the comments received supported establishing a standard of identity for American single malt whisky. In addition to the mass comments, 41 commenters expressed support for establishing the standard of identity as proposed in the NPRM, while twenty-five commenters supported establishing a standard of identity for American single malt whisky but with modifications to the proposed criteria. Three commenters did not support establishing a standard of identity. Those in support stated that establishing a standard of identity for American single malt whisky is beneficial for producers and consumers. Specifically, commenters stated that it will increase opportunities for American producers, allow for more innovation in this product category, and create trust in this category for consumers. Those opposed to establishing the proposed standard of identity for American single malt whisky generally did so in response to the proposed criteria and stated that the definition was too narrow, should allow grains other than barley, or that the definition was not restrictive enough. These comments are addressed in the discussion for each criterion below.

Discussion of Comments

Below, TTB summarizes and responds to the comments received relating to the proposed criteria for American single malt whisky. TTB notes that many commenters compared the criteria for American single malt whisky to other whiskies frequently described as “single malt,” such as Scotch whisky or Irish whisky. While recognizing the well-established reputation of such whiskies, TTB is also taking into consideration how best to reflect input from commenters that identified processes unique to the U.S. industry. In certain instances, TTB finds reason not to merely adopt the criteria applied elsewhere, but to recognize practices that may vary from those criteria, particularly where adhering to longstanding U.S. practices that would have shaped U.S. consumer expectations in identifying a U.S. product.

Mashed, Distilled, and Aged in the United States, and Distilled Entirely at One U.S. Distillery

The proposed standard set forth in Notice No. 213 included a criterion that the whisky must be mashed (which would include fermentation of the mash), distilled, and aged in the United States, and it must be distilled entirely at one U.S. distillery. No commenters opposed requiring mashing, distillation, and aging to occur in the United States. Commenters also broadly supported further requiring distillation to occur at a single United States distillery but differed as to whether mashing and (to a lesser extent) aging should also be required to occur at a single distillery. While the 2017 petitions for the American single malt whisky standard would have required mashing, distilling, and aging to take place at a single U.S. distillery, the standard proposed in Notice No. 213 reflected the later 2018 ASMWC petition in allowing mashing and aging to take place at U.S. facilities other than the place of distillation.

Distillation

All commenters discussing the requirement that distillation occur at a single U.S. distillery supported such a requirement. In its comment supporting the proposed criterion, the ASMWC stated that the term “single” in “single malt whisky” has been understood globally for generations to mean that the whisky was distilled at a single distillery. Two associated online whisky enthusiast communities that submitted a joint comment—the Whiskey Lodge and Reddit community “/r/AmericanSMW” (Whiskey Lodge)—stated that the requirement to distill at a single distillery was “[g]reat” and the “[b]are minimum for ‘single malt.’” The American Craft Spirits Association (ACSA) explained, “[o]ther than the distillation taking place at a single distillery, the rest of the production process should take place in the United States for the whiskey to be called American Single Malt Whiskey.” Similarly, the Distilled Spirits Counsel of the United States (DISCUS), the Kentucky Distillers Association, the Irish Whisky Association, the Japan Spirits and Liqueurs Makers Association, the National Association of Beverage Importers (NABI), the Scotch Whisky Association, SpiritsEUROPE, Sazerac, and Grand Teton Distillery all expressed support for requiring distillation in a single U.S. distillery.

Mashing and Fermentation

Thirteen commenters also supported a standard more restrictive than the one proposed in Notice No. 213, requiring that mashing and fermentation in addition to distillation take place at a single distillery. These commenters included Sazerac, the Kentucky Distillers’ Association, DISCUS, the Scotch Whisky Association, the Irish Whisky Association, spiritsEUROPE, the Japan Spirits & Liqueurs Makers Association, and NABI. The Irish Whisky Association and Scotch Whisky Association stated that not requiring mashing, fermentation, and distillation to take place at the same distillery would be inconsistent with international practice and would undermine and devalue the “single malt whisky” category. DISCUS contended that requiring the mashing to take place at the same facility as the distillation would align with consumer understanding and place American single malt whisky on equal footing as other products in the global market, while allowing mashing to occur elsewhere would lose the connection between the use of the term “single malt” and its place of production. NABI added that without a requirement for mashing and distillation to occur at a single facility, “a significant link is lost in the connection of the single malt whiskies representing the single efforts and quality controls of the same distillery.”

Some commenters expressed that malting and fermentation should not be required to occur at the same single distillery required for distillation. Copperworks Distilling Co. and the ASMWC noted that many American whisky producers purchase their mash from domestic breweries, and allowing American single malt whisky to be produced with mash made at domestic facilities other than the distillery producing the final product recognizes this practice. The ASMWC noted that, while United Kingdom regulations require mashing and fermentation to happen at the same facility, no such requirement applies in European Union regulations nor in regulations of many other single malt whisky producing regions.

Aging

Only a small number of commenters directly discussed location requirements for aging. Those that did (ACSA, NABI, Sazerac, and others) generally supported requiring aging to occur in the United States, but no commenter specifically expressed the view that it should also be required to take place at a single U.S.

distillery. One individual commenter suggested requiring disclosure on the label if the whisky is distilled at one distillery but aged or bottled at a different distillery.

Definition of Distillery

The American Distilled Spirits Alliance (ADSA) requested that TTB clarify the definition of “distillery” in the context of distillation occurring at “one U.S. distillery,” suggesting two possible approaches. First, ADSA suggested the term could apply to the “DSP” which TTB understands to mean the distilled spirits plant under the IRC and TTB regulations, reflected in the permit under those provisions. ADSA stated that an alternative option may be to follow the criteria for use of the term “bottled-in-bond,” which are set forth at 27 CFR 5.88 and require that a distilled spirit labeled as “bottled-in-bond” comply with certain standards, including that the spirits are distilled by the same distiller and, relevant here, at the same distillery.

TTB Response

TTB agrees with the consensus view of the commenters that the standard of identity should require that American Single Malt Whisky be mashed, fermented, distilled, and aged in the United States and that distillation take place at a single U.S. distillery. However, TTB is not incorporating the additional restrictions requiring mashing and fermentation to occur at a single distillery. TTB notes that these additional restrictions were requested by some commenters and opposed by others, and that such restrictions were not proposed in the 2018 ASMWC petition or in Notice No. 213.

As noted in the comments, TTB understands that it is common for U.S. distillers to partner with breweries to produce their mash and believes that the criterion should take into account and reflect the processes that have evolved in the American context as they reflect the expectations of American consumers and businesses for such domestic products. Moreover, this practice allows for innovation in this category by continuing partnerships with breweries. TTB believes this decision will not devalue the single malt whisky category more broadly, as some commenters suggest, because it is reasonable to expect that consumers will continue to have different expectations for products labeled as “American single malt whisky” compared with products labeled as single malt whisky from different countries with different standards.

Regarding the concept of a single distillery or references to the “same distillery,” TTB is amending the regulatory text to clarify that this term will be administered similarly to the “same distillery” requirement for the bottled-in-bond designation at 27 CFR 5.88(a)(2), which generally means the area identified as the location of the bonded area on a distilled spirits plant’s TTB permit or registration.

TTB is not incorporating the requirement suggested by one commenter that the label disclose where aging and bottling occur if different than the distillery where distillation occurred. As noted above, no commenters expressed a view that the American single malt whisky standard of identity should require aging or bottling to take place at the same distillery as distillation. Accordingly, TTB does not believe the fact that aging or bottling occurs at a different distillery is sufficiently critical to the consumer to require that it be disclosed on the label. TTB notes that the information may be provided voluntarily.

Distilled to a Proof of 160° or Less

In Notice No. 210, the proposal included a criterion that, to meet the standard of identity for American single malt whisky, the alcohol content of the liquor must not exceed 160° proof during distillation consistent with petitions TTB had received. It is also consistent with the current standards for many whisky type standards, including “malt whisky” and “whisky distilled from malt mash.”

Five commenters opposed a maximum 160° distilling proof, including Loon Liquors LLC, Brother Justus Whisky Co., and Little Round Still. Loon Liquors LLC stated that consumer expectations have been shaped by single malt whiskies distilled in Scotland and elsewhere, which allow distillation at less than 190° proof, and limiting distillation proof to 160° could confuse consumers. Further, the commenter states that distilling at high proof (between 160° and 190° proof) provides for precision in creating their signature flavor profiles, and limiting proof to no higher than 160° proof prevents American distillers from innovating and competing with distilleries in other countries that do not have such a limitation. Brother Justus Whisky Co. similarly pointed out that other international single malt whisky standards allow distillation at up to 190° proof and stated that a lower limit would stifle innovation and market access by smaller producers. Little Round Still stated that American single malt whisky should have the same

distillation proof limit as single malt whiskies elsewhere, that is, less than 190° proof.

However, the majority of commenters specifically discussing this criterion supported it. For example, the ASMWC supports a distillation proof not exceeding 160° proof, stating that this is an important provision designed to ensure the flavor and character of the grain remains after distillation. The ASMWC points out that, while the Scotch whisky regulations for single malt allow for distillation of up to 190° proof, they also require the use of pot stills, which according to ASMWC, are intended to ensure that more grain flavor is retained in the final distillate. ASMWC asserts that the same result is achieved by providing a lower maximum distillation strength of up to 160° proof. The Scotch Whisky Association similarly expressed support for the 160° proof distillation limit for American single malt whisky, stating it is consistent with single malt whiskies produced elsewhere. Other commenters, such as the Whiskey Lodge expressed support for a distillation proof not exceeding 160° noting that the limit was in line with other American whiskies.

TTB Response

With this final rule, TTB is incorporating a distillation proof of 160° or less for American single malt whisky, consistent with the proposal.

As the Whiskey Lodge suggested above, the proposed criterion is consistent with the current standard for “malt whisky” under TTB regulations, as well as most other types of whisky. As with other criteria, one goal in setting forth a standard of identity for American single malt whisky is to recognize the importance of existing standards for single malt whiskies internationally while also reflecting unique aspects distinctive to American production. Except for light whisky and certain blended whiskies, all subcategories (*i.e.*, types) of domestically-produced whisky recognized in the standards of identity have a maximum distillation proof of 160°. See 27 CFR 5.143(c). As noted by some commenters, this maximum has deep historical roots. President Taft, in a presidential memorandum, noted the distinction between whisky made from distilling a product at a proof of from 140° to 160° [proof] known as ‘high wines,’” and that made from what was then referred to as “neutral spirits” distilled at a proof “varying from 160° to 188°.”² This delineation was carried

² William Howard Taft, Decision on the Meaning of the Term “Whisky” Under the Pure Food Act and

forward following the repeal of prohibition into some of the earliest standards of identity for whisky published by TTB’s predecessor agency, the Federal Alcohol Control Administration, which differentiated between “neutral whisky . . . distilled at more than 160° proof and less than 190° proof” and “straight whisky . . . distilled at not exceeding 160° proof.”³ This distinction has persisted in regulations issued under the FAA Act since then. See 27 CFR 5.21(b) (1938 ed.). Maintaining this standard for American single malt whisky therefore reflects the American style of production that consumers and businesses have operated under since before prohibition.

Additionally, international standards allowing for certain single malt whiskies to be distilled up to 190° proof exist within the context of other standards. The ASMWC points out in its comment that, while for example Scotch whisky standards allow for distillation up to 190° proof, those standards also require the use of pot stills. TTB also notes the ASMWC’s assertion that the 160° distillation proof maximum accomplishes the same goal as the Scotch whisky pot still requirement in retaining the grain flavor in the distillate, which may be significant to consumers.

Distilled From a Fermented Mash of 100 Percent Malted Barley

In Notice No. 213, the proposal included a criterion that, to meet the standard of identity for American single malt whisky, the product must be produced from a fermented mash of only malted barley.

A majority of the commenters specifically addressing this issue expressed support for this criterion. The ASMWC (which the mass comments generally support) stated that the industry and consumers understand that “malt” specified on its own refers to malted barley exclusively, and that this meaning is consistent with longstanding TTB regulations. The Scotch Whisky Association noted “[t]he use of malted barley only in ‘Single Malt Whisky’ is tightly bound up in its reputation as a whisky category globally.” Canyon Diablo Distillery explained, “using less than 100% malted barley and mixing in

the Proper Regulations for Branding Various Kinds of Whisky Under the Internal Revenue Act, (1909) (published online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/367051>).

³ United States, Federal Alcohol Control Administration, *Regulations relating to false advertising and misbranding of distilled spirits*, United States Govt. Printing Office (1935).

addition[al] different grains changes the character of the whisky and should change its identity,” and the American Distilled Spirits Alliance added, “[f]or [American single malt whisky] to maintain the characteristics consumers expect with the term “single malt,” it must be made from 100% malted barley.”

However, not all commenters agreed with the criterion as proposed and suggested different alternatives. Some commenters expressed that the term “malt” should not be limited to malted barley, but instead reflect a broader view of the term since other grains, such as rye and wheat, can also be malted. For example, Chattanooga Whiskey suggested that only 51 percent malted barley be required in order to reflect a broader understanding of the term malt and allow for innovation explaining that, “nearly every grain can now be malted, in our modern era . . . [m]any [mistakenly] believe that malt is always barley, and that barley is the only grain that contains the requisite enzymes.” Similarly, Bainbridge Organic Distillers stated that this aspect of the definition limited single malt whisky to the concept as it is understood within the United Kingdom, and that prohibiting American distillers from using the term “single malt” when distilling other malted grains would limit innovation.

Other commenters suggested adopting additional standards of identity that would specify the different grains. Canyon Diablo noted on this point that, “[w]hile other grains can be malted and used they should have a different standard of identity and classification and be labeled as such.” Similarly, the ADSA commented that, “While some distillers will argue for the use of alternative grains as innovative or uniquely American, the use of a commonly accepted term—single malt—in naming of the product category requires preserving the base characteristics, which the consumer has already come to expect.” “Single malt” they explained is “an indicator of 100% malted barley” and “an example of such a characteristic, because it forms the base flavor profile for the product.” They concluded that, “[s]ome commenters may propose for the allowance of using rye or wheat, and that’s fine if they are also asking for the creation of an additional category. . . .” Sazerac suggested that allowances for the use of other grains could be incorporated into the terms of the proposed standard for American Single Malt Whisky, providing the example of “a single malt rye made with 100 percent rye.”

TTB Response

TTB agrees with the commenters that state that the term “malt” on its own refers to malted barley exclusively. This meaning is well established and reflects current regulations at 27 CFR 5.143(c)(2) providing that “malt whisky” refers to whisky made from at least 51 percent “malted barley,” while whiskies made with 51 percent of other malted grains must name the grain. Changing this approach would require a more significant change beyond the scope of this rulemaking. Moreover, TTB agrees with the ADSA and other similar comments that allowing the use of other grains in addition to barley in “American single malt whisky” may cause consumer confusion.

Although some commenters suggested that including other types of grain would foster innovation, TTB notes that whisky producers would still be able to innovate with other grains as long as the final product is appropriately labeled. For example, rye malt whisky (with a fermented mash of not less than 51 percent malted rye grain) would be allowed, provided it met the other relevant requirements.

TTB would consider any future petitions from interested parties for the creation of additional standards of identity for other products made primarily or entirely from other malted grains, but TTB is not finalizing any such standards in the context of this rulemaking without an opportunity for public notice and comment to better understand consumer expectations and industry practices surrounding such products.

Stored in Oak Barrels Not Exceeding a Capacity of 700 Liters

The proposed standard set forth in Notice No. 213 included a criterion that American single malt whisky be stored in oak barrels no larger than 700 liters during aging. Twenty commenters specifically expressed support for the 700-liter limit. In explaining their support for this criterion, commenters such as the Scotch Whisky Association, ASMWC, and an individual commenter indicated that it is necessary for the appropriate level of interaction between the whisky and wood of the barrel, and that the limitation would ensure larger barrels that would dilute the effect of the wood contact are not used.

Nine commenters did not support the 700-liter size limit, including Sazerac, the Kentucky Distillers Association, and several individual commenters. Commenters generally highlighted that this limit is not in place for other types of whisky. One commenter, Brandy

Library Lounge, LLC, also stated any limit would be more appropriately expressed in gallons for an American product. Also, one commenter stated a more restrictive limit might be needed but did not specify such a limit. Sazerac suggested a 60-gallon limit instead of a 700-liter limit, stating that a 53-gallon barrel is the industry standard. Two other commenters, an individual commenter and Canyon Diablo Distillery, generally opposed barrels size limitations but similarly suggested that, if such a limitation is imposed, a size closer to the industry standard 53-gallon barrel would be more appropriate.

TTB Response

In this final rule, TTB is finalizing the proposed 700-liter size limit on barrels used for storage of American single malt whisky during aging. TTB is persuaded by the significant majority of commenters in favor of this criterion, in particular by those who raised the point that establishing a barrel size maximum would indicate characteristics related to interaction between the product and the wood in connection with any statements regarding aging. At the same time, TTB acknowledges the concerns raised by certain commenters about establishing a standard not required for or perhaps followed in the production of other whisky types. By establishing a 700-liter size limit, TTB believes consumers will have greater certainty of the degree to which the age of the product represents interaction with the barrel, but producers will still have flexibility to use most barrels typically used for the production of American whiskies. TTB is not finalizing a more restrictive standard, such as the 60-gallon limit suggested by one commenter, because TTB believes it would prevent the use of some barrels commonly used in American whisky production.

In response to commenters who asked for the criterion to be expressed in gallons instead of liters, TTB will consider issuing public guidance clarifying the gallon equivalent to the 700-liter maximum included in the final rule.

The Use of Used, Uncharred New, or Charred New Oak Barrels

The proposed standard set forth in Notice No. 213 included a criterion that allows producers to use oak barrels that are used, uncharred new, or charred new for the storage of American single malt whisky during aging. Twenty-two commenters specifically stated support for allowing the use of used, uncharred new, or charred new oak barrels. These commenters stated that this would allow for creativity, innovation, and

variety in the finished products. Commenters also stated that allowing used barrels would help address a potential low supply of new oak barrels.

One commenter, Canyon Diablo Distillery, expressed the view that the use of non-American wood barrels or used barrels that contained non-American whisky would result in a non-American product. Two commenters suggested allowing storage in non-oak wood casks. Additionally, one commenter opposed the use of used barrels, suggesting that American single malt whisky should be stored only in new oak barrels to be consistent with the definition of malt whisky.

TTB Response

TTB is incorporating this criterion as proposed and will allow American single malt whisky to be stored for aging in oak barrels that are used, uncharred new, or charred new.

Currently, TTB regulations state that one criterion of all whisky is storage in oak barrels. This criterion is already widely accepted in the industry. Allowing storage in barrels made from wood other than oak would be a significant departure from all other types of whisky and could lead to consumer confusion about the characteristics of American single malt whisky. Additionally, finalizing a type standard that contradicts the class standard would have a broader impact than the proposal TTB initially notified. As such, the finalized standard of identity allows for storage only in oak barrels.

While some commenters opposed allowing used oak barrels for storage, TTB believes that allowing American single malt whisky to be stored in used oak barrels recognizes the realities of American whisky-making. As cited by commenters who supported this criterion as proposed, allowing used barrels will help alleviate the possible shortage of oak barrels and is consistent with single malt whiskies produced elsewhere. Moreover, different whisky types permit the use of different types of oak barrels, for example, light whisky and corn whisky can be aged in used or uncharred new oak barrels (27 CFR 5.143(c)(3) and (5)), while bourbon can only be aged in charred new oak barrels (27 CFR 5.143(c)(2)). Allowing multiple barrel types is consistent with those standards.

Finally, TTB believes that storage in a barrel that is not made of American wood, or that previously contained non-American whisky, does not make whisky produced in the United States “non-American.” Since mashing, distilling, and aging all occur in the

United States, the product is an American product regardless of the source of the wood for the barrel.

Bottled at Not Less Than 80° Proof

The proposed standard set forth in Notice No. 213 included a criterion requiring American single malt whisky to be bottled with an alcohol by volume content of not less than 40 percent (or 80° proof). TTB did not specifically include this criterion as part of the proposed American single malt whisky standard of identity in § 5.143(c)(15), as it flows directly from the general definition of the class “whisky” under current regulations. TTB received six comments supporting this criterion and is merely noting for clarity that American single malt whisky must be bottled at not less than 80° proof, consistent with the class requirements.

Use of Geographical Designations Other Than American

The proposal set forth in Notice No. 213 is unique among American whiskies in that the geographical designation “American” is expressly included in the type designation. This is different, for example, from the type designation “bourbon whisky” that must be made in the United States, but does not include the “American” reference in the type designation. The petition that provided the basis for Notice No. 213, and consequently the proposal in that notice, did not set forth a standard of identity for “single malt whisky” but rather a standard for a specific product to be identified as “American single malt whisky.” As a result, commenters requested clarification of the rules for including State and other geographic designations for such a standard.

The ADSA asked that TTB clarify whether the regulations for American single malt whisky would “preclude the usage of the name of the specific U.S. State or U.S. City of production in lieu of ‘American,’” further proposing that “[s]o long as the product being made complies with the Class and Type for [American single malt whisky] it should be allowed to use a furthering descriptor.” ADSA provides the example of an industry member making a product in Montana that would comply with the American single malt whisky standard of identity, and asserts that they should be allowed to either include Montana as a geographic descriptor or to replace the word “American” with “Montana” and use the term “Montana single malt whisky” because the “clear implication” is that the product is not only an American single malt whisky but one from Montana. ADSA further states that at no

time should such a product be allowed to be labeled with the State or similar descriptor without the term “American,” if it does not meet the American single malt whisky criteria.

Whiskey Lodge similarly suggested that if a State or any designation more specific than “American” appeared in the designation, TTB allow the term “American” to not appear, for example, “Texas single malt [w]hiskey” and “Rocky Mountain single malt whiskey.” Relatedly, an individual commenter suggested that TTB also add American single malt whisky standards of identity for particular regions within the United States noting, “A malt whiskey from the Pacific Northwest is very different from a whiskey made in the southern states and very different from a whiskey made in the Midwest.”

TTB Response

The standard of identity TTB proposed in Notice No. 213 generally incorporated the proposal it had received from ASMWC, and TTB stated in that notice that, as proposed, the amendment to the regulations would affect any COLA that uses the term “American single malt whisky” as a designation, as products with those labels would be required to meet any new standard of identity. The proposal did not contemplate applying the standards more broadly to products labeled as “single malt whisky” with other place names. Additionally, the ASMWC stated in its comment that it was not aware of more than a handful of whiskies bottled, labeled, and sold as “American single malt whisky” that would not meet the requirements for the proposed American single malt whisky standard of identity, and so conveyed its understanding that the proposal was limited in scope to such products. Applying the criteria of the standard of identity beyond use of the term “American single malt whisky” would significantly expand the scope of what was originally proposed, potentially affecting labels for any malt whisky domestically produced and currently labeled with “single malt whisky,” not just those labeled using the term “American single malt whisky.” TTB would not be able to finalize such an expanded application without considering the effect on all stakeholders and providing additional notice and opportunity to comment. As a result, TTB is finalizing the standard of identity with the scope that was proposed, and only labels bearing the term “American single malt whisky” would be held to the criteria for that standard. Products produced in the United States that do not bear the full

term would not be required to meet the criteria for use of the term “American single malt whisky.” TTB would consider proposing such a broader scope should it receive a petition to do so.

Comments on TTB’s Request for Information

In addition to the above criteria for American single malt whisky, TTB posed eight questions in Notice No. 213 that relate to the addition of American single malt whisky as a type of whisky and its implementation. The comment summary above includes responses to comments regarding two of the eight questions, related to size restrictions for barrels used to store American single malt whisky and the use of used and new oak barrels in the production of American single malt whisky. Below is a summary of the comments and TTB’s responses on the remaining six questions.

Use of Coloring, Flavoring or Blending Materials

TTB solicited feedback on whether to allow the use of coloring, flavoring, or blending materials in the production of American single malt whisky. The majority of commenters opposed their use, and thirty-eight commenters noted that doing so could be misleading for consumers. Many commenters were concerned that the use of additives would undermine this category of spirits, which is currently considered prestigious.

However, while many commenters expressed a general opposition to the use of coloring, flavoring, or blending materials in American single malt whisky, several of those in opposition made an exception for the use of caramel color. For example, DISCUS generally opposed allowing coloring, flavoring, or blending materials but expressed openness to the use of caramel color if disclosed on the label. Similarly, the ASMWC suggested prohibiting all coloring, flavoring, or blending materials but recognized that the addition of caramel color is “customarily employed” in the production of American single malt whisky and other single malt whiskies. The Irish Whisky Association and Scotch Whisky Association both expressed support for the addition of caramel coloring, consistent with the respective standards of their country’s single malt whiskies.

Overall, 18 commenters supported some allowance for coloring materials, with the majority of those supporting only the use of caramel coloring. In general, commenters who supported the

use of coloring materials also stated that there should be a requirement to disclose the use of coloring materials on the label. Additionally, two commenters stated they may possibly support coloring, flavoring, or blending materials if they were more clearly defined. No commenters specifically supported allowing the use of flavoring materials in American single malt whisky.

TTB Response

In response to comments received, TTB is finalizing a standard of identity for American single malt whisky that allows the use of caramel coloring, provided that the use of such coloring material is disclosed on the label. Allowing caramel coloring aligns American single malt whisky with many other types of whisky, including other single malt whiskies produced internationally. Prohibiting all other coloring, flavoring, and blending materials would narrow the allowed additives as supported by commenters. While TTB’s current regulations at 27 CFR 5.72(c) generally do not require a statement of any type when caramel coloring is used in the types of whiskies that allow such coloring material (if used at not more than 2.5 percent by volume of the finished product), TTB agrees with commenters that any added caramel coloring should be disclosed on the label of American single malt whisky to ensure transparency regarding the product’s readily-observable characteristics.

Use of the Designation “Straight”

Notice No. 213 included a question on whether to allow the designation “straight” to be used with American single malt whisky. Under current regulations, the “straight” designation generally refers to an aging requirement of at least two years, which is the period of time the whisky has been stored in an oak barrel of the type otherwise required for the underlying standard of identity. For example, “bourbon whisky” may only be stored in charred new oak barrels, and “straight bourbon whisky” must be stored in a charred new oak barrel for a minimum of two years.⁴ See 27 CFR 5.143(c)(2) and (5).

Ten commenters were in support of allowing the designation “straight” to be used with American single malt whisky, including ACSA, ADSA, Whiskey Lodge, and several individual

⁴ Similarly, “corn whisky” bearing an age statement must have been stored in used or uncharred new oak barrels, and “straight corn whisky” must have been stored in used or uncharred new oak barrels for a minimum of two years. See 27 CFR 5.143(c)(3) and (6).

commenters and distilleries. These commenters were in general agreement that the term “straight” should be allowed as long as the whisky has been aged for at least two years.

Eight commenters opposed the use of the designation “straight” with American single malt whisky, including the National Association of Beverage Importers, Scotch Whisky Association, Irish Whisky Association, spiritsEUROPE, and several individual commenters and distilleries. These commenters indicated that the term “straight” would cause confusion in the global marketplace because the term is unique to American whisky. In general, these commenters suggested a minimum age requirement or including the product’s age on the label instead of using the term “straight.” One commenter, New Riff Distilling LLC, stated the term “straight” should only be allowed to indicate the use of new charred oak barrels.

TTB Response

TTB will allow the use of the designation “straight” with American single malt whisky as long as the two-year aging requirement is met. Allowing for this designation would be consistent with other product designations for whisky under TTB’s regulations, where the “straight” whisky must be stored for two years in the type of barrel associated with the underlying type of whisky. In other words, for American single malt whisky to be designated as “straight American single malt whisky,” the whisky must be stored for a minimum of two years in used, uncharred new, or charred new oak barrels. While commenters in opposition to the use of the term “straight” suggested that the term is not well-understood in the global market because it is only used on American whiskies, TTB agrees with an individual commenter in support who suggests that “straight” is a term that is unique to American whiskies, so it is therefore appropriate for use with American single malt whisky as an additional distinguishing factor.

TTB is incorporating a new paragraph (c)(16) in table 1 of 27 CFR 5.143 to account for “straight American single malt whisky” as described above. TTB is not incorporating any other minimum age requirement(s) in the American single malt whisky standard of identity. Commenters, including NABI, the Scotch Whisky Association, Sazerac, Japan Spirits and Liqueurs Makers Associations, spiritsEUROPE, the Irish Whisky Association, NIST on behalf of the UK, and the Kentucky Distillers’ Association, suggested that American

single malt whisky should have a minimum age requirement ranging from two to four years. However, TTB believes this would unduly hinder innovation and notes that no other types within the class “whisky” have a minimum age requirement (other than the age requirement associated with the “straight” designator). Further, because TTB’s regulations generally require that whiskies aged less than four years bear an age statement (see 27 CFR 5.74(b)), TTB believes there is sufficient transparency within the class regarding age.

“Blended” American Single Malt Whisky

TTB requested and received input on whether to allow for mixtures of American single malt whisky to be labeled as “blended American single malt whisky,” similar to how TTB regulations allow for blended Scotch whisky and blended Canadian whisky to be labeled, respectively, “blended Scotch whisky” and “blended Canadian whisky.” Eight commenters support the use of the term “blended American single malt whisky.” These commenters, which include individuals and distilleries, noted that producers and consumers desire products composed of whisky from more than one distillery.

Thirteen commenters oppose use of the term “blended American single malt whisky”, asserting use of the term “blended” may cause consumer confusion because the term “blended” is typically not associated with the term “single.” These commenters included ACSA, DISCUS, Kentucky Distillers Association, Scotch Whisky Association, Irish Whisky Association, spiritsEUROPE, Japan Spirits and Liqueurs Makers Association, and individual commenters and distilleries. Some commenters (for example, ACSA, DISCUS) suggested modifying the name of this product category to replace the term “single” with “blended,” such as “American Blended Malt Whisky.”

TTB Response

TTB’s finalized regulations for the American single malt whisky standard of identity do not allow blends of whiskies from multiple distilleries that would otherwise meet the American single malt whisky criteria to be labeled “blended American single malt whisky.” TTB agrees with the commenters in opposition that blending whiskies from multiple distilleries is fundamentally contradictory to the meaning of “single” in the American single malt whisky standard of identity, even if the “blended” modifier is included. As such, producers blending

whiskies from different distilleries may not classify them as American single malt whisky. With respect to commenters’ suggestion to modify the name of the standard of identity to “American Blended Malt Whisky” for blends, TTB notes that a blend of whiskies produced in the United States and meeting the current standard of identity for “malt whisky” could already be labeled “American Blended Malt Whisky.”

Impact on Trademark Owners and Producers of Malt Whisky

In Notice No. 213, TTB sought comments on the impact that adding a standard of identity for American single malt whisky may have on owners of U.S. trademarks and current producers of malt whisky. In general, commenters who support establishing this standard of identity stated that the definition of American single malt whisky in the standard of identity would be beneficial to producers and trademark owners, as it would lend credibility to their operations, bring potential for increased recognition globally, and foster innovation. They assert that it would help ensure a level playing field for producers of American single malt whisky and maintain the premium reputation of the category. Additionally, the ASMWC stated they are not aware of more than a handful of whiskies bottled, labeled, and sold as “American single malt whisky” that would not meet the requirements for the proposed American single malt whisky standard of identity.

One commenter suggested that current producers who may face an economic hardship due to the new standard of identity should be able to continue to use their current products or processes. Another commenter asserted that its labels and trademarks would be negatively impacted by the rulemaking unless the standard of identity is modified to allow distillation at up to 190° proof. The commenter further stated that, along with adversely impacting their business, requiring American single malt whisky distillers to limit their distillation proof to 160° or less would inhibit market access and create a competitive disadvantage for American single malt whisky distillers vis-à-vis those producing outside of the United States, would be anti-competitive, and would exclude innovative whiskies.

TTB Response

As illustrated above, most commenters emphasized how establishing a standard of identity for American single malt whisky would

benefit U.S. producers. However, as also noted above, one commenter specifically stated that they, and the industry, would be negatively affected by the proposed standard of identity. Given that the current standard for production proof of malt whisky is consistent with the production proof of the standard of identity proposed for American single malt whisky, TTB is not aware of any widespread expectation in the industry that products meeting only the class standard of identity “whisky,” along with the other proposed criteria, would or should qualify for an American single malt whisky standard of identity. As discussed in the explanation of the maximum distillation proof criterion, the standards of identity for malt whisky and most other American whisky types within the general class (all except for light whisky and certain blended whiskies) allow distillation only up to a maximum of 160° proof.

In the event that there are current producers with approved labels that designate a product as “American single malt whisky,” producers may continue to use those labels but only on products that comply with the new requirements of TTB’s regulations in 27 CFR part 5, subject to the transition period discussed below in this document. Producers of products that do not comply with the new standard of identity could continue to produce such products but would need to obtain approval of new labels indicating the applicable class and/or type.

Use-Up of Previously Approved Labels

Commenters also provided feedback on whether, after establishment of the “American single malt whisky” standard of identity, TTB should allow producers to use up previously approved labels that do not comply with this standard, and for how long TTB should allow the use of these previously-approved labels before such labels would be revoked by operation of regulation. Commenters provided a wide range of answers, stating that after the establishment of the American single malt whisky standard of identity, producers should be afforded anywhere from 60 days to 20 years to use up previously approved labels that do not comply with this standard. One commenter recommended that TTB allow producers to revise their current label instead of requiring the application for a new one. Additionally, another commenter implied that if obtaining a new label would pose an economic hardship, that TTB allow the continued use of already approved

labels on products not meeting the criteria.

TTB Response

TTB is providing a five-year transition period, as discussed below in this document. This amount of time should allow any affected industry members to make label changes in conjunction with any routine label updates or change their processes to ensure their product conforms to the new standard of identity described in this rule.

Competition in the Alcohol Beverage Market

Finally, commenters provided feedback on how the addition of a standard of identity for American single malt whisky would affect competition in the alcohol beverage market (see “Effect on Currently-Approved Labels”). Commenters generally provided feedback that the addition of this standard of identity would increase the competitiveness of American distillers and level the playing field among producers of American single malt whisky. As noted above, one commenter asserted that a standard that requires a distillation proof of 160° is anti-competitive.

TTB Response

TTB notes positively the feedback from commenters that the addition of this standard of identity would increase the competitiveness of American distillers and level the playing field among producers of American single malt whisky. TTB addresses these comments as well as the comment on the maximum distillation proof of 160° further below in the sections “Effect on Currently-Approved Labels” and “Impact on Trademark Owners and Producers of Malt Whisky.”

TTB Determination

After careful consideration of the petitions received in response to this issue in Notice No. 176 and the comments received in response to Notice No. 213, TTB is finalizing a standard of identity for “American single malt whisky,” with two changes from the standard proposed in Notice No. 213. As originally proposed, TTB is defining American single malt whisky as a type of whisky that is mashed, distilled, and aged in the United States; is distilled entirely at one U.S. distillery; is distilled to a proof of 160 or less; is distilled from a fermented mash of 100 percent malted barley; is stored in oak barrels (used, uncharred new, or charred new) with a maximum capacity of 700 liters; and is bottled at not less than 80° proof.

In the first change from the proposal in Notice No. 213, TTB is providing for the use of the designation “straight” with American single malt whisky that is aged for two years. The second change allows for the use of caramel coloring as long as it is disclosed on the label.

This new standard of identity will be added to 27 CFR 5.143. TTB is also revising certain other sections in part 5 to include cross references to American single malt whisky.

Effect on Currently-Approved Labels

TTB will allow a five-year transition period, as this amount of time should allow any affected industry members to make label changes in conjunction with any routine label updates, to use up existing labels, or to change their processes to ensure their product conforms to the new standard of identity. A label with the designation “American single malt whisky” may be used for whisky that does not meet the new standard of identity if it is bottled within five years from the effective date of this final rule, provided that such label was approved before the effective date of this final rule and the whisky conforms to the standards set forth in 27 CFR 5.143 in effect prior to this final rule. All products bottled after this five-year transition period bearing an “American single malt whisky” designation must meet the standards for such designation. TTB may act to revoke COLAs covering non-compliant products and/or take other enforcement action against bottlers using such COLAs.

Regulatory Analysis and Notices

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 final rule amends the standards of identity for whisky in TTB’s regulations at 27 CFR 5.143(c) and makes conforming edits in other sections of part 5. It does not impose or otherwise cause any new reporting, recordkeeping, or other administrative requirements. TTB does not believe this rulemaking will affect a significant number of existing labels for distilled spirits products but is providing a five-year transition period to mitigate the effects on any affected industry member. (TTB specifically solicited comments on potential impacts on current producers and received only one comment from a producer indicating that their label(s) would be

affected by the proposed regulations.) Therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The collection of information in this rule has been previously approved by the Office of Management and Budget (OMB) under the title “Labeling and Advertising Requirements Under the Federal Alcohol Administration Act,” and assigned control number 1513–0087. This regulation would not result in a substantive or material change in the previously approved collection action, since the nature of the mandatory information that must appear on labels affixed to the container remains unchanged. 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.

Executive Order 12866

This final rule is not a significant regulatory action as defined in Executive Order 12866, as amended. Therefore, a regulatory assessment is not required.

List of Subjects in 27 CFR Part 5

Advertising, Alcohol and alcoholic beverages, Consumer protection, Labeling, Liquors, Packaging and containers, and Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons discussed in the preamble, TTB amends 27 CFR part 5 as follows:

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

- 1. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205 and 207.

Subpart A—General Provisions

- 2. Amend § 5.1 by revising the term “Age” to read as follows:

§ 5.1 Definitions.

* * * * *

Age. The length of time during which, after distillation and before bottling, the distilled spirits have been stored in oak barrels. “Age” for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky and straight American single malt whisky, means the period the whisky has been stored in charred new oak barrels.

* * * * *

Subpart E—Mandatory Label Information

■ 3. Amend § 5.66 by revising paragraphs (f)(1) introductory text and (f)(1)(i) to read as follows:

§ 5.66 Name and address for domestically bottled distilled spirits that were wholly made in the United States.

* * * * *

(f) * * *

(1) The State of distillation, which is the State in which original distillation takes place, must appear on the label of any type of whisky defined in § 5.143(c)(2) through (7), (15), and (16), which is distilled in the United States. The State of distillation may appear on any label and must be shown in at least one of the following ways:

(i) By including a “distilled by” (or “distilled and bottled by” or any other phrase including the word “distilled”) statement as part of the mandatory name and address statement, followed by a single location;

* * * * *

■ 4. Amend § 5.72 by adding a sentence at the end of paragraph (c) to read as follows:

§ 5.72 Coloring materials.

* * * * *

(c) * * * Provided, if any amount of caramel color is used in American single malt whisky, or in straight American single malt whisky, a statement specifying the use of caramel color must appear on the label.

* * * * *

■ 5. Amend § 5.74 by revising paragraphs (a)(1) and (b)(4) to read as follows:

§ 5.74 Statements of age, storage, and percentage.

(a) * * *

(1) As defined in § 5.1, age is the length of time during which, after distillation and before bottling, the distilled spirits have been stored in oak barrels. For bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky and straight American single malt whisky, aging must occur in charred new oak barrels.

* * * * *

(b) * * *

(4) In the case of whisky made in the United States and stored in reused oak barrels, other than corn whisky, light whisky, American single malt whisky, and straight American single malt whisky, in lieu of the words “___ years old” specified in paragraphs (b)(1) and (2) of this section, the period of storage in the reused oak barrels must appear on the label as follows: “stored ___ years in reused cooperage.”

* * * * *

Subpart I—Standards of Identity for Distilled Spirits

■ 6. Amend § 5.143 by:

■ a. Redesignating paragraphs (c)(16) through (18) in table 2 as paragraphs (c)(17) through (19);

■ b. Adding paragraphs (c)(15) and (16) to table 1; and

■ c. Adding paragraph (d).

The additions read as follows:

§ 5.143 Whisky.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)—TYPES OF WHISKY AND PRODUCTION, STORAGE, AND PROCESSING STANDARDS

Type	Source	Distillation proof	Storage	Neutral spirits permitted	Allowable coloring, flavoring, blending materials permitted
(15) American single malt whisky.	Fermented mash of 100 percent malted barley, produced in the United States.	160 or less, distilled at the same distillery in the United States.	Used, charred new, or uncharred new oak barrels; 700-liter maximum capacity; stored only in the United States.	No	No, except for caramel coloring and only if disclosed on the label.
(16) Straight American single malt whisky.	Fermented mash of 100 percent malted barley, produced in the United States.	160 or less, distilled at the same distillery in the United States.	Used, charred new, or uncharred new oak barrels for a minimum of 2 years; 700-liter maximum capacity; stored only in the United States.	No	No, except for caramel coloring and only if disclosed on the label.

* * * * *

(d) *Transition period.* A label with the designation “American single malt whisky” or “straight American single malt whisky” may be used on distilled spirits bottled before January 19, 2030, if the distilled spirits conform to the applicable standards set forth in this part in effect prior to January 19, 2025.

Signed: December 12, 2024.

Mary G. Ryan,
Administrator.

Approved: December 12, 2024.

Aviva R. Aron-Dine,
Deputy Assistant Secretary for Tax Policy.

[FR Doc. 2024–29938 Filed 12–13–24; 4:15 pm]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

31 CFR Part 323

[FISCAL–2023–0002]

RIN 1530–AA28

Disclosure of Records

AGENCY: Bureau of the Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of the Fiscal Service (Fiscal Service) within the