

§ 40.491

one copy of the schedule to the manufacturer, the original of which the manufacturer shall attach to the claim filed under § 40.473.

(72 Stat. 1419, as amended; 26 U.S.C. 26 U.S.C. 5705)

Subpart L—Manufacture of Processed Tobacco

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29410, June 22, 2009, subpart L was added, effective June 22, 2009 through June 22, 2012.

QUALIFICATION REQUIREMENTS FOR MANUFACTURERS OF PROCESSED TOBACCO

§ 40.491 Persons required to qualify.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person who engages in the processing of tobacco must first qualify for and receive a permit as a manufacturer of processed tobacco in accordance with the provisions of this subpart.

(b) *Exceptions.* (1) A person who engages in the processing of tobacco solely for his own personal use or consumption and not for sale or transfer to another person is not engaged in the manufacture of processed tobacco for purposes of this part and, accordingly, is not required to qualify as a manufacturer of processed tobacco.

(2) Any person who holds a TTB permit for the manufacture of tobacco products is thereby authorized to process tobacco solely for use in the manufacture of tobacco products under that permit, so long as the processed tobacco is not removed from the factory for any purpose other than destruction. Such a manufacturer is not required to qualify under this subpart as a manufacturer of processed tobacco.

(3) Any person who holds a TTB permit for the manufacture of tobacco products who removes processed tobacco from the factory for any purpose other than destruction must apply for authorization from TTB to engage in that activity, in accordance with § 40.47, under the manufacturer's existing permit.

§ 40.492 Application for permit.

The application for a permit as a manufacturer of processed tobacco

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must be made on TTB F 5200.3, according to the instructions on the form. All documents required under this subpart to be furnished with the application must be included with the application.

§ 40.493 Transitional rule.

(a) Any person who:

(1) On April 1, 2009, is engaged in business as a manufacturer of processed tobacco; and

(2) On or before June 30, 2009, submits an application for a permit or authorization as provided in this part to engage in such business, may continue to engage in that business pending final action on the application.

(b) Pending final action on an application or request for authorization submitted under paragraph (a) of this section, all provisions of chapter 52 of the Internal Revenue Code of 1986 shall apply to the applicant in the same manner and to the same extent as if the applicant were a holder of a permit to manufacture processed tobacco under chapter 52.

(c) Upon receipt of an application, the appropriate TTB officer will provide the applicant with a written acknowledgement that may be used for a limited period as confirmation of TTB authorization to engage in the business of a manufacturer of processed tobacco.

EFFECTIVE DATE NOTE: By T.D. TTB-80, at 74 FR 37552, July 29, 2009, § 40.493 was amended in paragraph (a)(2) by removing the word "Before" and adding in its place the words "On or before", effective July 29, 2009 through June 22, 2012.

§ 40.494 Corporate documents.

Every corporation that files an application for a permit as a manufacturer of processed tobacco must furnish with its application for the permit required by § 40.492 a true copy of the corporate charter or a certificate of corporate existence or incorporation executed by the appropriate officer of the State in which incorporated. The corporation must likewise furnish duly authenticated extracts of the stockholders' meetings, bylaws, or directors' meetings, listing the offices the incumbents of which are authorized to sign documents or otherwise act in behalf of the corporation in matters relating to 26 U.S.C. chapter 52, and regulations