

**§ 17.133 Food product formulas.**

Formulas for nonbeverage food products on TTB Form 5154.1 may be approved if they are unfit for beverage purposes. Approval does not authorize manufacture or sale contrary to State law. Examples of food products that have been found to be unfit for beverage purposes are stated below:

(a) *Sauces or syrups.* Sauces, or syrups consisting of sugar solutions and distilled spirits, in which the alcohol content is not more than 12 percent by volume and the sugar content is not less than 60 grams per 100 cubic centimeters.

(b) *Brandied fruits.* Brandied fruits consisting of solidly packaged fruits, either whole or segmented, and distilled spirits products not exceeding the quantity and alcohol content necessary for flavoring and preserving. Generally, brandied fruits will be considered to have met these standards if the container is well filled, the alcohol in the liquid portion does not exceed 23 percent by volume, and the liquid portion does not exceed 45 percent of the volume of the container.

(c) *Candies.* Candies with alcoholic fillings, if the fillings meet the standards prescribed for sauces and syrups by paragraph (a) of this section.

(d) *Other food products.* Food products such as mincemeat, plum pudding, and fruit cake, where only sufficient distilled spirits are used for flavoring and preserving; and ice cream and ices where only sufficient spirits are used for flavoring purposes. Also food adjuncts, such as preservatives, emulsifying agents, and food colorings, that are unfit for beverage purposes and are manufactured and used, or sold for use, in food.

**§ 17.134 Determination of unfitness for beverage purposes.**

The appropriate TTB officer has responsibility for determining whether products are fit or unfit for beverage purposes within the meaning of 26 U.S.C. 5111. This determination may be based either on the content and description of the ingredients as shown on TTB Form 5154.1, or on organoleptic examination. In such examination, samples of products may be diluted with water to an alcoholic concentra-

tion of 15% and tasted. Sale or use for beverage purposes is indicative of fitness for beverage use.

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37402, July 28, 2009, §17.134 was amended in the first sentence by removing the reference “26 U.S.C. 5131” and adding, in its place, the reference “26 U.S.C. 5111”, effective July 28, 2009 through July 30, 2012.

**§ 17.135 Use of specially denatured alcohol (S.D.A.).**

(a) *Use of S.D.A. in nonbeverage or intermediate products—(1) General.* Except as provided in paragraph (b) of this section, the use of specially denatured alcohol (S.D.A.) and taxpaid spirits in the same product by a nonbeverage manufacturer is prohibited where drawback of tax is claimed.

(2) *Alternative formulations.* No formula for a product on TTB Form 5154.1 shall be approved for drawback under this subpart if the manufacturer also has on file an approved TTB Form 1479-A or Form 5150.19, Formula for Article Made With Specially Denatured Alcohol or Rum, pertaining to the same product.

(b) *Use of S.D.A. in ingredients—(1) Purchased ingredients.* Generally, purchased ingredients containing S.D.A. may be used in nonbeverage or intermediate products. However, such ingredients shall not be used in medicinal preparations or flavoring extracts intended for internal human use, where any of the S.D.A. remains in the finished product.

(2) *Self-manufactured ingredients.* Self-manufactured ingredients may be made with S.D.A. and used in nonbeverage or intermediate products, provided—

(i) No taxpaid spirits are used in manufacturing such ingredients; and

(ii) All S.D.A. is recovered or dissipated from such ingredients prior to their use in nonbeverage or intermediate products. (Recovery of S.D.A. shall be in accordance with subpart K of part 20 of this chapter; recovered S.D.A., with or without its original denaturants, shall not be reused in nonbeverage or intermediate products.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended (26 U.S.C. 5273))