

regulations from which the variations were authorized. Authority for any variations may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where a manufacturer desires to employ such variation, he shall submit a written application to do so, in triplicate, to the appropriate TTB officer. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved. The manufacturer shall retain, as part of his records, any authorization of the appropriate TTB officer under this section.

**§ 40.47 Other businesses within factory.**

(a) *General.* The appropriate TTB officer may authorize such other businesses within the factory of a manufacturer of tobacco products as he finds will not jeopardize the revenue, will not hinder the effective administration of this part, and will not be contrary to law. A manufacturer of tobacco products who wishes to engage in another business within the factory must submit a written application to do so to the appropriate TTB officer. Except as otherwise provided in paragraph (b) of this section, a manufacturer of tobacco products may not engage in such other business until the application is approved by the appropriate TTB officer. The manufacturer must retain as part of its records any authorization provided under this section.

(b) *Processed tobacco.* A manufacturer of tobacco products may engage in certain activities related to processed tobacco without an approval under paragraph (a) of this section. Section 40.72(b) specifies the activities and circumstances that do not require authorization to engage in another business as well as those activities and circumstances that do.

[T.D. TTB-78, 74 FR 29408, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37302, June 21, 2012]

**§ 40.48 Penalties and forfeitures.**

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

**§ 40.49 Delegations of the Administrator.**

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.40, Delegation of the Administrator's Authorities in 27 CFR Part 40, Manufacture of Tobacco Products and Cigarette Papers and Tubes. You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-44, 71 FR 16949, Apr. 4, 2006]

**Subpart E—Qualification Requirements for Manufacturers of Tobacco Products**

**§ 40.61 Qualification.**

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person who manufactures tobacco products must qualify for, and obtain, a permit as a manufacturer of tobacco products in accordance with the provisions of this part.

(b) *Exceptions.* The following persons are not considered to be engaged in the business of manufacturing tobacco products for purposes of this part:

(1) A person who produces tobacco products solely for that person's own consumption or use;

(2) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse;

(3) A retailer of tobacco products, such as a tobacconist, who takes tax-paid tobacco products out of the package, as that term is defined in § 40.11, in front of waiting customers and places the tobacco products into a different container for immediate delivery to those customers; or