

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94-455, title XIX, §§ 1905(a)(13), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §805(a), July 26, 1979, 93 Stat. 274.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (d)(1), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§ 201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. The basic permit is covered by sections 203 and 204 of Title 27. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5171, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to "premises prohibited for distilling", prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(1)(B), (b), (c)(2), and 5505(b) of this title.

Provisions similar to those comprising subsecs. (a), (b)(1) and (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5172, 5175(a), 5177(a), 5178, 5231, 5243(a), 5271(a), 5301-5303, 5305, 5331(a)(1).
(b)(1)	5301-5303, 5304(a)(1).
(c)	5175(b), 5271(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627 to 631, 643, 645, 650, 654, 655.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96-39 added subsecs. (a) and (b) and redesignated former subsecs. (a) and (b) as (c) and (d), respectively.

Subsec. (c). Pub. L. 96-39 redesignated former subsec. (a) as (c) and inserted provisions relating to an application requirement where new operations are added and permitting the Secretary to establish minimum capacity and level of activity requirements. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 96-39 redesignated former subsec. (b) as (d) and substituted reference to subsection (c) for reference to subsection (a) and struck out reference to section 5274.

Subsec. (e). Pub. L. 96-39 redesignated former subsec. (c) as (e) and substituted reference to processor for reference to rectifier and reference to warehouseman for reference to bonded warehouseman and struck out reference to bottler.

1976—Subsec. (b)(1). Pub. L. 94-455, §§ 1905(a)(13)(A), 1906(b)(13)(A), struck out "49 Stat. 978;" before "27 U.S.C. 203, 204" in parenthetical provisions after "Federal Alcohol Administration Act" and struck out "or his delegate" after "Secretary".

Subsec. (b)(3). Pub. L. 94-455, § 1905(a)(13)(B), struck out par. (3) under which persons who were qualified on June 30, 1959, to perform operations for which a permit

was required covering operations not required to be covered by a basic permit under the Federal Alcohol Administration Act had been allowed to continue operations pending a reasonable opportunity to make application for a permit.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(13) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Pub. L. 96-39, title VIII, §809(a), (b), July 26, 1979, 93 Stat. 292, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) NEW APPLICATION REQUIRED.—

“(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

“(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registration of any person under section 5171 of the Internal Revenue Code of 1986 which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

“(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the Internal Revenue Code of 1986, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

“(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

“(2) such premises meet the minimum capacity and level of activity requirements for that type of operation.”

§ 5172. Application

The application for registration required by section 5171(c) shall, in such manner and form as the Secretary may by regulations prescribe, identify the applicant and persons interested in the business (or businesses) covered by the application, show the nature, location and extent of the premises, show the specific type or types of operations to be conducted on such premises, and show any other information which the Secretary may by regulations require for the purpose of carrying out the provisions of this chapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 807(a)(13), July 26, 1979, 93 Stat. 282.)

PRIOR PROVISIONS

A prior section 5172, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to “conditions precedent to carrying on business of distilling”, prior to the general revision of this chapter by Pub. L. 85-859 and is covered in part by this section. See also sections 5171(a), 5173(a), 5178(a)(1)(A), and 5601(a)(2), (4) of this title.

Provisions similar to those comprising this section were contained in prior sections 5175(a), 5178, 5231, 5243(a), 5271, 5301 to 5303, 5305, and 5331(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 628, 631, 643, 645, 650, 654, 655, 657, 661, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “section 5171(c)” for “section 5171(a)”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5173. Bonds

(a) Operations at, and withdrawals from, distilled spirits plant must be covered by bond**(1) Operations**

No person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

(2) Withdrawals

No distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

(b) Operations bonds

The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

(1) One plant bond

The bond covers operations at a single distilled spirits plant.

(2) Adjacent wine cellar bond

The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

(3) Area bond

The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(c) Withdrawal bonds

The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

(d) Unit bonds

Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of

subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

(e) Terms and conditions**(1) In general**

Any bond furnished under this section shall be conditioned that the person furnishing the bond—

(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

(B) will pay—

(i) all taxes imposed by this chapter, and

(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

(2) Other terms and conditions

Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

(f) Amount**(1) In general**

The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

(2) Maximum and minimum amount

The Secretary shall by regulations prescribe a minimum amount and a maximum amount for each type of bond which may be furnished under this section.

(g) Total amount available

The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

(h) Special rules

For purposes of this section—

(1) Withdrawal bonds

In the case of any bond furnished under this section which covers withdrawals but not operations—

(A) such bond shall be in addition to the operations bond, and

(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

(2) Adjacent wine cellars**(A) Requirements**

No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(B) Bond in lieu of wine cellar bond

In the case of any adjacent wine cellar, a bond furnished under this section which cov-