

former bond or bonds, or former continuation certificate or certificates, of such brewer in respect to all liabilities accruing after its approval. If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force between the parties for a succeeding period of not less than 4 years, the brewer may submit, in lieu of a new bond, a certificate executed, under penalties of perjury, by the brewer and the surety attesting to continuation of the bond, which certificate shall constitute a bond subject to all provisions of law applicable to bonds given pursuant to this section.

(c) Exception from bond requirements for certain breweries

Subsection (b) shall not apply to any taxpayer for any period described in section 5551(d).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1388; amended Pub. L. 91-673, §3(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 114-113, div. Q, title III, §332(b)(2)(C), Dec. 18, 2015, 129 Stat. 3106.)

PRIOR PROVISIONS

A prior section 5401, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-113 added subsec. (c).
1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (b). Pub. L. 91-673 permitted bonding requirement to be satisfied by continuation of an existing bond, with such continuation being subject to Government approval in the same manner as a new bond and required that the continuation certificate be executed by both the brewer and the surety, under penalties of perjury.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to any calendar quarters beginning more than 1 year after Dec. 18, 2015, see section 332(c) of Pub. L. 114-113, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 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.

§ 5402. Definitions

(a) Brewery

The brewery shall consist of the land and buildings described in the brewer's notice. The continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions; and if parts of the brewery are so separated they must abut on the dividing medium and be adjacent to each other. Notwithstanding the preceding sentence, facilities under the control of the brewer for case packing, load-

ing, or storing which are located within reasonable proximity to the brewery packaging facilities may be approved by the Secretary as a part of the brewery if the revenue will not be jeopardized thereby.

(b) Brewer

For definition of brewer, see section 5052(d).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(b), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109-59, title XI, §11125(b)(17), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5402, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59 substituted “section 5052(d)” for “section 5092”.

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

1971—Subsec. (a). Pub. L. 91-673 inserted proviso to definition of “Brewery” that the continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions, with the exception that the Secretary approve facilities under the control of the brewer for case packing, loading, or storing, which are located within reasonable proximity to the brewery as a part of the brewery if the revenue will not be jeopardized thereby.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5403. Cross references

(1) For authority of Secretary to disapprove brewers' bonds, see section 5551.

(2) For authority of Secretary to require the installation and use of meters, tanks, and other apparatus, see section 5552.

(3) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5403, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1982—Par. (3). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”.

1976—Par. (1). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

PART II—OPERATIONS

Sec.
5411. Use of brewery.

Sec.	
5412.	Removal of beer in containers or by pipeline.
5413.	Brewers procuring beer from other brewers.
5414.	Removals from one brewery to another belonging to the same brewer.
5415.	Records and returns.
5416.	Definitions of package and packaging.
5417.	Pilot brewing plants.
5418.	Beer imported in bulk.

PRIOR PROVISIONS

A prior part II consisted of sections 5411 to 5416, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1421(b), Aug. 5, 1997, 111 Stat. 1049, added item 5418.

1971—Pub. L. 91-673, §4(b), Jan. 12, 1971, 84 Stat. 2058, substituted “Definitions of package and packaging” for “Definitions of bottle and bottling” in item 5416 and added item 5417.

§ 5411. Use of brewery

The brewery shall be used under regulations prescribed by the Secretary only for the purpose of producing, packaging, and storing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and of soft drinks; for the purpose of processing spent grain, carbon dioxide, and yeast; and for such other purposes as the Secretary by regulation may find will not jeopardize the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(c), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5411, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1971—Pub. L. 91-673 struck out requirement of separate facilities for bottling of beer and cereal beverages and permitted use of brewery for packaging and storing beer and other cereal beverages.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 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.

§ 5412. Removal of beer in containers or by pipeline

Beer may be removed from the brewery for consumption or sale only in hogsheads, packages, and similar containers, marked, branded, or labeled in such manner as the Secretary may by regulation require, except that beer may be removed from the brewery pursuant to section 5414 or by pipeline to contiguous distilled spirits plants under section 5222.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(d), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 115-97, title I, §13803(b), Dec. 22, 2017, 131 Stat. 2173.)

PRIOR PROVISIONS

A prior section 5412, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Pub. L. 115-97 inserted “pursuant to section 5414 or” before “by pipeline”.

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

1971—Pub. L. 91-673 substituted “packages,” for “barrels, kegs, bottles,”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13803(c), Dec. 22, 2017, 131 Stat. 2173, provided that: “The amendments made by this section [amending this section and section 5414 of this title] shall apply to any calendar quarters beginning after December 31, 2017.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5413. Brewers procuring beer from other brewers

A brewer, under such regulations as the Secretary shall prescribe, may obtain beer in his own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5054.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5413, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5414. Removals from one brewery to another belonging to the same brewer**(a) In general**

Beer may be removed from one brewery to another brewery belonging to the same brewer, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe. The removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (1) one such corporation owns the controlling interest in the other such corporation, or (2)