

AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-369 substituted “notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2)” for “permit to set up a still, boiler or other vessel for distilling, see section 5105”.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-455, §1905(b)(6)(C), struck out “, 5601(b)(1),” after “5601(a)(1)”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(6)(C) 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.

§ 5180. Signs**(a) Requirements**

Every person engaged in distilled spirits operations shall place and keep conspicuously on the outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged. The sign required by this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

(b) Penalty

For penalty and forfeiture relating to failure to post sign or improperly posting such sign, see section 5681.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1355; 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)(19), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

A prior section 5180, act Aug. 16, 1954, ch. 736, 68A Stat. 632, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior section 5274, act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted “distilled spirits operation” for “distilling, bonded warehousing, rectifying, or bottling of distilled spirits”.

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

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.

§ 5181. Distilled spirits for fuel use**(a) In general****(1) Purposes for which plant may be established**

On such application and bond and in such manner as the Secretary may prescribe by reg-

ulation, a person may establish a distilled spirits plant solely for the purpose of—

- (A) producing, processing, and storing, and
- (B) using or distributing,

distilled spirits to be used exclusively for fuel use.

(2) Regulations

In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

- (A) expedite all applications;
- (B) establish a minimum bond; and
- (C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

(b) Authority to exempt

The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

(c) Special rules for small plant production**(1) Applications****(A) In general**

An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

(B) Receipt of application

Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

(C) Multiple applications

If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

(2) Determination**(A) In general**

In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

(B) Failure to make determination

If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

(C) Rejection of application

If the Secretary determines under subparagraph (A) that a permit should not be issued—

(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

(ii) such determination shall not prejudice any further application for such operating permit.

(3) Bond

No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

(4) Eligible distilled spirits plant

The term “eligible distilled spirits plant” means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

(d) Withdrawal free of tax

Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

(e) Prohibited withdrawal, use, sale, or disposition**(1) In general**

Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

(2) Rendering unfit for use

For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

(f) Definition of distilled spirits

For purposes of this section, the term “distilled spirits” does not include distilled spirits produced from petroleum, natural gas, or coal.

(Added Pub. L. 96-223, title II, §232(e)(1), Apr. 2, 1980, 94 Stat. 278.)

PRIOR PROVISIONS

A prior section 5181 was renumbered 5182 of this title.

EFFECTIVE DATE

Section 232(h)(3) of Pub. L. 96-223 provided that: “The amendments made by subsection (e) [enacting this section, amending sections 5004, 5005, 5214, and 5601, and repealing provisions set out as a note under section 4081 of this title] shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act [Apr. 2, 1980].”

§ 5182. Cross references

For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112,¹ and by retail liquor dealers, see section 5122.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1356, §5181; amended Pub. L. 96-39, title VIII, §807(a)(20), July 26, 1979, 93 Stat. 283; renumbered §5182, Pub. L. 96-223, title II, §232(e)(1), Apr. 2, 1980, 94 Stat. 278; Pub. L. 109-59, title XI, §11125(b)(16), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in a prior section 5275(3), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 amended text of section generally. Prior to amendment, text read as follows: “For provisions requiring payment of special (occupational) tax as wholesale liquor dealer, see section 5111, or as retail liquor dealer, see section 5121.”

1979—Pub. L. 96-39 struck out “as rectifier, see section 5081, or” after “(occupational) tax”.

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 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.

Subchapter C—Operation of Distilled Spirits Plants

Part

- I. General provisions.
- II. Operations on bonded premises.
- [III. Repealed.]

PRIOR PROVISIONS

A prior subchapter C, Internal Revenue Bonded Warehouses, consisted of part I, Establishment, and part II, Operation, and consisted of sections 5231 to 5233 and 5241 to 5252, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(5), July 26, 1979, 93 Stat. 290, struck out item relating to Part III “Operations on bottling premises” in table of parts comprising subchapter C.

¹ So in original. Probably should be “5121.”