

(e) Same kind of fruit

For purposes of this subchapter the term “same kind of fruit” includes, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) Own production

For purposes of this subchapter the term “own production”, when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar, whether or not produced by a predecessor in interest at such bonded wine cellar. This term may also include, under regulations, wine produced by fermentation in bonded wine cellars owned or controlled by the same or affiliated persons or firms when located within the same State; the term “affiliated” shall be deemed to include any one or more bonded wine cellar proprietors associated as members of any farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 117(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211).

(g) Liquid sugar

For purposes of this subchapter the term “liquid sugar” means a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix.)

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 89-44, title VIII, §806(b)(3), June 21, 1965, 79 Stat. 163; Pub. L. 94-455, title XIX, §1905(a)(21), Oct. 4, 1976, 90 Stat. 1820; Pub. L. 115-141, div. U, title IV, §401(a)(246), Mar. 23, 2018, 132 Stat. 1195.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5392, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2018—Subsec. (f). Pub. L. 115-141 substituted “section 117(a)(5)” for “section 17(a)(5)”.

1976—Subsec. (f). Pub. L. 94-455 struck out “49 Stat. 990;” before “27 U.S.C. 211”.

1965—Subsec. (c). Pub. L. 89-44, §806(b)(3)(A), added fruit, grain, or other sources of starch to cane and beets as sources of “pure sugar”.

Subsec. (g). Pub. L. 89-44, §806(b)(3)(B), added subsec. (g).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by 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 OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

Subchapter G—Breweries**Part**

- I. Establishment.
- II. Operations.

Editorial Notes**PRIOR PROVISIONS**

A prior subchapter G consisted of parts I and II, contained sections 5401 to 5403 and 5411 to 5416, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT**Sec.**

- 5401. Qualifying documents.
- 5402. Definitions.
- 5403. Cross references.

Editorial Notes**PRIOR PROVISIONS**

A prior part I consisted of sections 5401 to 5403 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5401. Qualifying documents**(a) Notice**

Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary a notice in writing, in such form and containing such information as the Secretary shall by regulations prescribe as necessary to protect and insure collection of the revenue.

(b) Bonds

Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned (1) that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; (2) that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053(a), which beer is not exported or returned to the brewery; and (3) that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary, the brewer shall execute a new bond or a continuation certificate, in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond or continuation certificate shall be in lieu of any 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 pen-

alties 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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, loading, 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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”.