by persons suffering a major disaster, pursuant to former act Sept. 30, 1950, ch. 1125, 64 Stat. 1109, for disasters occurring in the United States after Dec. 31, 1954, and before Sept. 2, 1958, in respect to tobacco products and cigarette papers and tubes; specified persons to whom the payments would be made and the procedure for allowance of claims; required the destruction of such tobacco products and cigarette papers and tubes under supervision; and made other laws applicable to such payments insofar as not inconsistent with section 209 of Pub. L. 85–859.

Subchapter B—Qualification Requirements for Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors

Sec.
5711. Bond.
5712. Application for permit.
5713. Permit.

Editorial Notes

AMENDMENTS

1997—Pub. L. 105–33, title IX, § 9302(h)(2)(C), Aug. 5, 1997, 111 Stat. 674, inserted ''and Importers'' after ''Manufacturers'' in subchapter heading.

1965—Pub. L. 89–44, title V, § 502(b)(5), June 21, 1965, 79 Stat. 151, struck out reference to dealers in tobacco materials from subchapter heading.

§ 5711. Bond

(a) When required

Every person, before commencing business as a manufacturer of tobacco products or cigarette papers and tubes, or as an export warehouse proprietor, shall file such bond, conditioned upon compliance with this chapter and regulations issued thereunder, in such form, amount, and manner as the Secretary shall by regulation prescribe. A new or additional bond may be required whenever the Secretary considers such action necessary for the protection of the revenue.

(b) Approval or disapproval

No person shall engage in such business until he receives notice of approval of such bond. A bond may be disapproved, upon notice to the principal on the bond, if the Secretary determines that the bond is not adequate to protect the revenue.

(c) Cancellation

Any bond filed hereunder may be canceled, upon notice to the principal on the bond, whenever the Secretary determines that the bond no longer adequately protects the revenue.

(Aug. 16, 1954, ch. 736, 68A Stat. 711; Pub. L. 85–859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 89–44, title V, § 502(b)(6), June 21, 1965, 79 Stat. 151; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1965—Subsec. (a). Pub. L. 89–44 struck out reference to dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85–859 included export warehouse proprietors, and substituted ''manufacturer of tobacco products or cigarette papers and tubes'' for ''manufacturer of articles''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89–44, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85–859, set out as an Effective Date note under section 5001 of this title.

TRANSITIONAL RULE

Pub. L. 111–3, title VII, § 702(g), Feb. 4, 2009, 123 Stat. 111, provided that: ''Any person who—

''(1) on April 1, 2009[,] is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

''(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code [this subchapter] to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 [this chapter] shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.''

§ 5712. Application for permit

Every person, before commencing business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in section 5713. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, find that—

(1) the premises on which it is proposed to conduct the business are not adequate to protect the revenue;

(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe,[1] or

(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

[1] So in original. The comma probably should be a semicolon.

(C) has failed to disclose any material information required or made any material false statement in the application therefor.

(Aug. 16, 1954, ch. 736, 68A Stat. 712; Pub. L. 85–859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 94–455, title XIX, §§ 1905(a)(27), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 105–33, title IX, § 9302(h)(2)(A), (5), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111–3, title VII, § 702(a)(1)(A), (b)(1), Feb. 4, 2009, 123 Stat. 108, 109.)

Editorial Notes

AMENDMENTS

2009—Pub. L. 111–3, § 702(a)(1)(A), inserted ''or processed tobacco'' after ''tobacco products'' in introductory provisions.

Par. (3). Pub. L. 111–3, § 702(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefor.''

1997—Pub. L. 105–33, § 9302(h)(5), struck out ''or'' at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

Pub. L. 105–33, § 9302(h)(2)(A), inserted ''or importer'' after ''manufacturer'' in introductory provisions.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' and struck out provision that no person subject to this section, who was lawfully engaged in business on the date of the enactment of the Excise Tax Technical Changes Act of 1958, be denied the right to carry on that business pending reasonable opportunity to make applications for permit and final action thereon.

1958—Pub. L. 85–859 included export warehouse proprietors, and excluded dealers in tobacco materials.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 702(a)(1)(A) of Pub. L. 111–3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111–3, set out as a note under section 5702 of this title.

Pub. L. 111–3, title VII, § 702(b)(3), Feb. 4, 2009, 123 Stat. 110, provided that: ''The amendments made by this subsection [amending this section and section 5713 of this title] shall take effect on the date of the enactment of this Act [Feb. 4, 2009].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105–33, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(27) 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 OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85–859, set out as an Effective Date note under section 5001 of this title.

§ 5713. Permit

(a) Issuance

A person shall not engage in business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor without a permit to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Secretary shall by regulation prescribe, to every person properly qualified under sections 5711 and 5712. A new permit may be required at such other time as the Secretary shall by regulation prescribe.

(b) Suspension or revocation

(1) Show cause hearing

If the Secretary has reason to believe that any person holding a permit—

(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

(B) has violated the conditions of such permit,

(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

(D) has failed to maintain his premises in such manner as to protect the revenue,

(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

(2) Action following hearing

If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.

(Aug. 16, 1954, ch. 736, 68A Stat. 712; Pub. L. 85–859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–33, title IX, § 9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111–3, title VII, § 702(a)(1)(B), (b)(2), Feb. 4, 2009, 123 Stat. 108, 109.)

Editorial Notes

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–3, § 702(a)(1)(B), inserted ''or processed tobacco'' after ''tobacco products''.

Subsec. (b). Pub. L. 111–3, § 702(b)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: ''If the Secretary has reason to believe that any person