

1513-0006

26 U.S.C.

Sec. 5179. Registration of stills

(a) Requirements

Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register such still or apparatus with the Secretary immediately on its being set up, by subscribing and filing with the Secretary a statement, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its capacity, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used (except that stills or distilling apparatus not used or intended to be used for the distillation, redistillation, or recovery of distilled spirits are not required to be registered under this section).

(b) Cross references

(1) For penalty and forfeiture provisions relating to unregistered stills, see sections 5601(a)(1) and 5615(1).

(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1355; amended Pub. L. 94-455, title XIX, Secs. 1905(b)(6)(C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 98-369, div. A, title IV, Sec. 451(b)(1), July 18, 1984, 98 Stat. 819.)

Sec. 5511. Establishment and operation

This chapter (other than sections 5178(a)(2)(C), 5179, 5203(b), (c), and (d), and 5552) shall not be applicable with respect to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

(1) such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and

(2) such concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of a concentrate which does not exceed 24 percent alcohol by volume) such concentrate is transferred to a bonded wine cellar for use in production of natural wine as provided in section 5382; and

(3) the manufacturer thereof makes such application, keeps such records, renders such reports, files such bonds, and complies with such other requirements with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Secretary may by regulations prescribe as necessary for the protection of the revenue.

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1392; amended Pub. L. 88-653, Sec. 3, Oct. 13, 1964, 78 Stat. 1085; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

27 CFR

Sec. 18.13 Alternate methods or procedures.

(a) General. The proprietor, on specific approval by the appropriate TTB officer, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when he finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

(b) Application. A proprietor who desires to employ an alternate method or procedure shall submit a written application to the appropriate TTB officer. The application will specifically describe the proposed alternate method or procedure and set forth the reasons therefor. Alternate methods or procedures may not be employed until the application has been approved by the appropriate TTB officer. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996; T.D. ATF-436, 66 FR 5471, Jan. 19, 2001]

Sec. 18.14 Emergency variations from requirements.

(a) General. The appropriate TTB officer may approve emergency variations from requirements specified in this part, where the appropriate TTB officer finds that an emergency exists, the proposed variations are necessary, and the proposed variations:

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations stated in the approval of the application. Failure to comply in good faith with such procedures, conditions and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation.

(b) Application. A proprietor who desires to employ emergency variations shall submit a written application to the appropriate TTB

officer. The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when an emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the appropriate TTB officer via telephone.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.17 Retention of documents.

The proprietor shall maintain a file of all approved applications and other documents, on or convenient to the concentrate plant premises, available for inspection by appropriate TTB officers.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.21 General.

A person who desires to engage in the business of manufacturing concentrate shall submit an application for registration on Form 27-G (5520.3) and receive approval as provided in this part. All written statements, affidavits, and other documents submitted in support of the application or incorporated by reference are deemed a part thereof.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.22 Restrictions as to location and use.

(a) Restrictions. A concentrate plant may not be established in any dwelling house or on board any vessel or boat, or on any premises where any other business is conducted. The premises of a concentrate plant may be used only for the business stated in the approved application for registration.

(b) Exceptions. The appropriate TTB officer may authorize (1) the establishment of a concentrate plant on premise where other business is conducted, or (2) the use of the premises of a concentrate plant for other business. A person or proprietor desiring such authorization shall submit a written application to the appropriate TTB officer. The application will describe the other business by type and the premises to be used. If the premises of a concentrate plant are to be used for other business, the relationship (if any) to the concentrate plant will be described in the application. A concentrate plant may not be established on premises where other business is conducted or used to conduct other business until the application is approved. The appropriate TTB officer

may decline to approve the application or withdraw the authorization if the revenue is jeopardized or the effective administration of this part is hindered.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.23 Registry of stills.

The provisions of subpart C of part 29 of this chapter are applicable to stills or distilling apparatus located on concentrate plant premises used for the production of concentrate. As provided under Sec. 29.55, the listing of a still in the application, and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended, 1392, as amended (26 U.S.C. 5179, 5511))

[T.D. ATF-207, 50 FR 23681, June 5, 1985, as amended by T.D. ATF-462, 66 FR 42736, Aug. 15, 2001]

Sec. 18.24 Data for application.

Applications on Form 27-G (5520.3) will include the following:

- (a) Serial number;
- (b) Name and principal business address of the applicant, and the location of the plant if different from the business address;
- (c) Purpose for which filed;
- (d) Information regarding proprietorship, supported by the organizational documents listed in Sec. 18.25; and
- (e) Description of each still and a statement of its maximum capacity. Where any of the information required by this section is on file with the appropriate TTB officer, that information, if accurate and complete, may be incorporated by reference by the applicant and made a part of the application.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.25 Organizational documents.

The supporting information required by paragraph (d) of Sec. 18.24 includes, as applicable:

- (a) Extracts from the articles of incorporation or from the minutes of meetings of the board of directors, authorizing the incumbents of certain offices, or other persons, to sign for the corporation;
- (b) Names and addresses of the officers and directors (Do not list officers and directors who have no responsibility in connection with the operation of the concentrate plant.);
- (c) Names and addresses of the 10 persons having the largest ownership or other interest in the corporation or other entity, and the nature and amount of the stockholding or other interest of each, whether

the interest appears in the name of the interested party or in the name of another for him; and

(d) In the case of an individual owner or a partnership, the name and address of every person interested in the concentrate plant, whether the interest appears in the name of the interested party or in the name of another for him.

Sec. 18.27 Additional requirements.

(a) The appropriate TTB officer, to protect the revenue, may require:

(1) Additional information in support of an application for registration;

(2) Marks on major equipment to show serial number, capacity, and use;

(3) Installation of meters, tanks, pipes, or other apparatus; and

(4) Installation of security devices.

(b) Any proprietor refusing or neglecting to comply with any requirement of this section shall not be permitted to operate.

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(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended, 1395, as amended (26 U.S.C. 5172, 5178, 5552))

[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.31 General requirements.

Where there is a change with respect to the information shown in the application, the proprietor shall submit, within 30 days of the change (except as otherwise provided in this part), an amended application on Form 27-G (5520.3).

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(Sec. 201, Pub. L. 85-859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.32 Change in name.

The proprietor shall submit an amended application to cover any change in the individual, firm, or corporate name.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.33 Change in location.

The proprietor shall submit an amended application to cover a change

in the location of a concentrate plant. Operation of the concentrate plant may not be commenced at the new location prior to approval of the amended application.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.34 Continuing partnerships.

If, under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. If the surviving partner acquires the business on completion of the settlement of the partnership, such partner shall qualify in his own name from the date of acquisition, as provided in Sec. 18.35. The rule set forth in this section also applies where there is more than one surviving partner.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.35 Change in proprietorship.

(a) General. If there is a change in the proprietorship of a concentrate plant, the outgoing proprietor shall comply with the requirements of Sec. 18.38, and the successor shall, before commencing operations, file application and receive approval in the same manner as a person qualifying as the proprietor of a new concentrate plant. Processing material, concentrate and other materials may be transferred from an outgoing proprietor to a successor.

(b) Fiduciary. A successor to the proprietorship of a concentrate plant who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall comply with the provisions of paragraph (a) of this section. If the fiduciary was appointed by a court, the effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date the fiduciary assumes control shall coincide with the effective date of the qualifying documents filed by the fiduciary.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.36 Change in officers and directors.

The proprietor shall submit an amended application to cover changes

in the list of officers and directors furnished under the provisions of Sec. 18.25.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.37 Change in stockholders.

The proprietor shall submit changes in the list of stockholders furnished under the provisions of Sec. 18.25 annually on May 1. When the sale or transfer of capital stock results in a change of control or management of the business, the proprietor shall comply with the provisions of Sec. 18.35.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.38 Permanent discontinuance.

A proprietor who permanently discontinues the business of a concentrate manufacturer shall, after completion of operations, file an application on Form 27-G (5520.3) to cover such discontinuance, giving the date of the discontinuance.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]

Sec. 18.52 Production of high-proof concentrate.

(a) General. High-proof concentrate may be produced in a concentrate plant. Concentrate having an alcohol content of more than 24 percent by volume that is fit for beverage use may not be produced in a concentrate plant.

(b) Determination. A proprietor shall determine whether a particular concentrate is a high-proof concentrate. However, a proprietor may at any time submit a written request to the appropriate TTB officer for a determination of whether a concentrate is unfit for beverage use. Each request for a determination will include information as to kind, percent alcohol by volume, and fold of the concentrate. The request will be accompanied by a representative 8-ounce sample of the concentrate.

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[T.D. ATF-104, 47 FR 23921, June 2, 1982, as amended by T.D. ATF-381, 61 FR 37003, July 16, 1996]