

1513-0040

26 U.S.C.

Sec. 5171. Establishment

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

27 CFR

Sec. 19.157 Operating permits.

(a) General. Except as provided in paragraph (b) of this section, each person required to file an application for registration under Sec. 19.151 shall make application for and obtain an operating permit before commencing any of the following operations:

- (1) Distilling for industrial use.
- (2) Warehousing of spirits for industrial use.
- (3) Denaturing spirits.
- (4) Warehousing of spirits (without bottling) for nonindustrial use.
- (5) Bottling or packaging of spirits for industrial use.
- (6) Manufacturing articles.

(7) Any other distilling, warehousing, or processing operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978, 27 U.S.C. 203, 204). Application for such operating permit shall be made on Form 5110.25 to the appropriate TTB officer.

(b) Exceptions. The provisions of paragraph (a) of this section shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for the agency.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

Sec. 19.158 Data for application for operating permits.

Each application on Form 5110.25 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 5110.25 shall include the following information:

- (a) Name and principal business address of the applicant.
- (b) Plant address, if different from the business address.
- (c) Description of the operation to be conducted for which an operating permit must be obtained.
- (d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in Sec. 19.167.
- (e) Trade names (see Sec. 19.165).
- (f) On specific request of the appropriate TTB officer, furnish a statement as to whether the applicant or any of the persons whose names and addresses are required to be furnished under the provisions of Sec. 19.167(a)(2) and (c) has ever: (1) Been convicted of a felony or misdemeanor under Federal or State law; (2) Been arrested or charged

with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to paragraphs (f)(1) and (f)(2) of this section, if these violations are not felonies); or (3) Applied for, held, or been connected with a permit, issued under Federal law to manufacture, distribute, sell or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of the permit, the period of operation, and state in detail whether the permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) or (f)(3) of this section is on file with the appropriate TTB officer, the applicant may, by incorporation or by reference, state that the information is made a part of the application for an operating permit. The applicant shall, when required by the appropriate TTB officer, furnish as a part of his application for an operating permit additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to the permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

Sec. 19.159 Issuance of operating permits.

Only one operating permit will be issued for a plant. The operating permit shall designate the operations permitted. All of the provisions of this part relating to the performance of the operations covered by the permit shall be included in the provisions and conditions of the permit. Operating permits shall be kept posted available for inspection at the distilled spirits plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

Sec. 19.160 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in Sec. 19.163, or voluntarily surrendered. The provisions of Sec. 19.181 shall be a part of the terms and conditions of all operating permits issued under this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

Sec. 19.162 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the appropriate TTB officer, immediately return the permit for correction.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

Sec. 19.165 Trade names.

(a) Operating permits. Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list that trade name on Form 5110.25 (showing the operations in which each trade name will be used) and the offices where the trade name is registered, supported by copies of any certificate or other document filed or issued in respect to the trade name.

(b) Basic permits. Where any distilling, warehousing, or processing operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204), regulations issued under such Act govern the approval and use of trade names for those operations.

(c) Conditions. Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

Sec. 19.181 Automatic termination of permits.

(a) Permits not transferable. Operating permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized thereby, the permit shall thereupon automatically terminate.

(b) Corporations. In the case of a corporation holding an operating permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, such permit may remain in effect with respect to the operation covered thereby until the expiration of 30 days after such change, whereupon such permit shall automatically terminate. However, if within such 30 day period an application for a new permit covering such operation is made, then the outstanding operating permit may remain in effect with

respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding operating permit shall thereupon automatically terminate.

(c) Basic permits. The termination of basic permits is governed by the provisions of 27 CFR part 1.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

Sec. 19.182 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file application to amend the registration and to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new name prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

Sec. 19.183 Change of trade name.

If there is to be a change in, or addition of, a trade name, the proprietor shall file application to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new trade name prior to issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, (26 U.S.C. 5271))

Sec. 19.189 Change in location.

Where there is a change in the location of the plant, the proprietor shall file applications to amend the registration of the plant and the operating and/or basic permit, and either a new bond or a consent of surety on Form 1533. Operation of the plant may not be commenced at the new location prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349 as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

Sec. 19.191 Change in operations.

If the proprietor proposes to conduct a new business or operation involving spirits, he shall file applications to amend the registration of the plant and the operating and/or basic permit. If the proprietor

desires to engage, on the plant premises, in other businesses, as provided in subpart D, he shall submit an application to amend the registration of the plant to include the information required under Sec. 19.152(l)(4). The additional operation or business may not be carried on prior to approval of the amended registration and (if required) issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

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