

1513-0044

26 U.S.C.

§ 5178. Premises of distilled spirits plants

(a) Location, construction, and arrangement

(1) General

(A) The premises of a distilled spirits plant shall be as described in the application required by section 5171(c). The Secretary shall prescribe such regulations relating to the location, construction, arrangement, and protection of distilled spirits plants as he deems necessary to facilitate inspection and afford adequate security to the revenue.

(B) No distilled spirits plant for the production of distilled spirits shall be located in any dwelling house, in any shed, yard, or inclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is made or produced, or liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under subsection (b)).

(C) Notwithstanding any other provision of this chapter relating to distilled spirits plants the Secretary may approve the location, construction, arrangement, and method of operation of any establishment which was qualified to operate on the date preceding the effective date of this section if he deems that such location, construction, arrangement, and method of operation will afford adequate security to the revenue.

(2) Production operations

(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

(C) The Secretary is authorized to order and require -

(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment, as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

(3) Warehousing operations

(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration, warehouse bulk distilled spirits on the bonded premises of such plant.

(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

(4) Processing operations

Any person establishing a distilled spirits plant may, as described in the application for registration, process distilled spirits on the bonded premises of such plant.

(b) Use of premises for other businesses

The Secretary may authorize the carrying on of such other businesses (not specifically prohibited by section 5601(a)(6)) on premises of distilled spirits plants, as he finds will not jeopardize the revenue. Such other businesses shall not be carried on until an application to carry on such business has been made to and approved by the Secretary.

(c) Cross references

(1) For provisions authorizing the Secretary to require installation of meters, tanks, and other apparatus, see section 5552.

(2) For penalty for distilling on prohibited premises, see section 5601(a)(6).

(3) For provisions relating to the bottling of distilled spirits labeled as alcohol, see section 5235.

(4) For provisions relating to the unauthorized use of distilled spirits in any manufacturing process, see section 5601(a)(9).

ALTERNATION OF PLANT PROPRIETORS

§ 19.141 Procedures for alternation of proprietors.

(a) General. A proprietor may alternate use of a distilled spirits plant or part of the plant with one or more other proprietors. In order to do so, each proprietor must separately file and receive approval of the necessary registration, applications and bonds that are required by subparts D and E of this part. Each proprietor must also conduct operations and keep records in accordance with the regulations in this part. Where operations by alternating proprietors will be limited to parts of the plant, each proprietor must include the following in the notice of registration:

- (1) A description of the areas, rooms or buildings, or combination of rooms or buildings that will alternate between proprietors;
- (2) The method that the proprietor will use to separate the alternated premises from any premises that will not be alternated; and
- (3) Diagrams of the parts of the plant that will be alternated.

(b) Letterhead notice. After a proprietor receives approval to alternate use of the premises with another proprietor, the alternating proprietors must separately file letterhead notices each time they intend to alternate use of the premises. The proprietors may file a single notice if the notice is signed by each proprietor or an authorized representative of each proprietor. The proprietors must submit the letterhead notice to the appropriate TTB officer prior to the first day that alternation is to take place. Proprietors must include the following with the notice:

- (1) The plant number and the name of the proprietor filing the notice;
- (2) Identification of the outgoing proprietor and incoming proprietor (by name and plant number);
- (3) The effective date and hour of the alternation;
- (4) Identification of any applicable diagrams provided with the registration of each proprietor filed under paragraph (a) of this section, showing the portions of the premises involved in the alternation;
- (5) The purpose of the alternation;
- (6) If distilling materials, unfinished or finished spirits, denatured spirits, or wine will be transferred to the incoming proprietor, a statement to that effect; and
- (7) If denatured spirits or articles will be retained in the processing account in locked tanks during the period of alternate proprietorship, a statement to that effect.

(c) Alternation of production operations. In the case of an outgoing proprietor who intends to alternate production operations with another proprietor, the outgoing proprietor must:

- (1) Completely process all distilling materials and unfinished spirits in any bonded areas, rooms, or buildings that will alternate unless the outgoing proprietor transfers them to the incoming proprietor; and
- (2) Mark and remove all finished spirits in the name in which they were produced before a production gauge is made by the incoming proprietor.

(d) Alternation of storage operations. In the case of an outgoing proprietor

who intends to alternate storage operations with another proprietor, the outgoing proprietor must:

- (1) Transfer in bond any spirits or wines in any bonded areas, rooms, or buildings that will be alternated; and
- (2) Execute a form TTB F 5000.18, Change of Bond (Consent of Surety), to continue in effect the operations or unit bond whenever operations of the areas, rooms, or buildings will be resumed by the outgoing proprietor following suspension of operations by the other proprietor.

(e) Alternation of processing operations. In the case of an outgoing proprietor who intends to alternate processing operations with another proprietor, the outgoing proprietor:

- (1) Before the effective date and time of the alternation, must process to completion and remove from the affected area all spirits, denatured spirits, wines, or articles located in any rooms, areas, or buildings that will alternate, or must transfer these spirits, wines, and articles in bond to the incoming proprietor;
- (2) Must execute a TTB F 5000.18, Change of Bond (Consent of Surety), to continue in effect the operations or unit bond whenever operations of the areas, rooms, or buildings will be resumed by the outgoing proprietor following suspension of operations by the other proprietor; and
- (3) May retain denatured spirits and articles in tanks locked with approved locks if the outgoing proprietor maintains custody and control of the locks and keys for the tanks. In this case, the outgoing proprietor must obtain a consent of surety on TTB F 5000.18 to continue liability on the operations or unit bond for the tax on the denatured spirits or articles that retained in the locked tanks.

(f) Records. Each alternating proprietor must maintain its own records and submit its own reports. Records kept by an outgoing proprietor for spirits, wines, and alcoholic flavoring materials may be used by the incoming proprietor. All transfers of distilling materials, unfinished spirits, spirits, denatured spirits, and wines must be reflected in the records of each proprietor.

(26 U.S.C. 5172, 5271)

CONDUCT OF ALTERNATE OPERATIONS AT A PLANT

§ 19.142 Alternate use of premises and equipment for customs purposes.

(a) General. The proprietor may extend or curtail the distilled spirits plant premises or a part of those premises for temporary use by Customs and Border Protection officers for customs purposes. If the proprietor wishes to alternate the use of the premises for customs purposes, that use must be approved by the port director of customs and must be conducted in accordance with applicable customs laws and regulations.

(b) Qualification. Before alternating the plant premises for customs purposes, the proprietor must file and receive approval of the necessary registration, application and bonds as required by this part. The proprietor's application for registration must include the following:

- (1) A description of the areas, rooms or buildings, or combination of rooms or buildings that will be alternated;

(2) A diagram of the parts of the plant that the proprietor will use for the alternation; and

(3) The method that that the proprietor will use to separate the alternated premises from any premises not subject to alternation.

(c) Letterhead notice. After the proprietor receives approval to alternate premises for customs purposes, the proprietor must file a letterhead notice with the appropriate TTB officer each time the premises will be alternated. The notice must include the following information:

(1) The name and plant number of the proprietor filing the notice;

(2) The date and hour the alternation will take place;

(3) Identification of any applicable diagrams provided with the registration filed under paragraph (b) of this section, showing the portions of the premises involved in the alternation;

(4) The purpose of the alternation;

(5) If the alternation is for gauging or processing distilled spirits, a statement to that effect; and

(6) An indication of the class of temporary customs warehouse, if applicable.

(d) Proprietor responsibilities. Prior to the start of alternation for customs purposes, the proprietor must remove all spirits from the premises or equipment that will be involved in the alternation. However, upon release by customs, spirits in the process of being transferred to bonded premises under 26 U.S.C. 5232 may remain on the premises to be reincluded in the bonded premises.

(e) Exceptions. The qualification requirements in paragraph (b) of this section and the notice requirements in paragraph (c) of this section will not apply where the proprietor solely intends to gauge bulk distilled spirits for transfer from customs custody to TTB bond.

(f) Conveyance of spirits in customs custody. If the proprietor intends to convey spirits in customs custody across the distilled spirits plant premises the proprietor must comply with § 19.60.

(26 U.S.C. 5172, 5178)

§ 19.143 Alternation for other purposes.

(a) General. The proprietor may temporarily extend or curtail the distilled spirits plant premises to allow for several other types of alternate uses. Premises may be alternately curtailed or extended to allow bonded premises to be used temporarily as general premises, or to allow general premises to be used as bonded premises. A curtailment or extension of distilled spirits plant premises may also allow for the use of the premises as:

(1) An adjacent bonded wine cellar;

(2) An adjacent taxpaid wine bottling house;

(3) An adjacent brewery; or

(4) Facilities for the manufacturer of eligible flavors.

(b) Qualifying documents. Before alternating the premises for a purpose listed in paragraph (a) of this section, the proprietor must file and receive approval of the necessary registration, application forms and attachments that

relate to the proposed alternate use. Depending on the type of alternation involved, the proprietor must file one or more of the following qualification documents:

- (1) Registration. For all alternate uses of the distilled spirits plant described in paragraph (a) of this section the proprietor must file a form TTB F 5110.41, Registration of a Distilled Spirits Plant, to cover the proposed alternation of premises.
 - (2) Diagram. For all alternate uses, the proprietor must provide a special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment that are to be subject to alternation, in their relative operating sequence.
 - (3) Bond. For all alternate uses, the proprietor must provide evidence of an existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.
 - (4) Bonded wine cellar or taxpaid wine bottling house. If the proprietor intends to alternate the premises or part of the premises as a bonded wine cellar or taxpaid wine bottling house the proprietor must also file form TTB F 5120.25, Application to Establish and Operate Wine Premises.
 - (5) Brewery. If the proprietor intends to alternate the premises or part of the premises for a brewery operation the proprietor must file form TTB F 5130.10, Brewer's Notice.
- (c) Separation of premises. The proprietor must separate the distilled spirits plant premises from the alternate use premises in accordance with the approved plan of alternation described in the qualifying documents.
- (d) Segregation of products. When the proprietor alternates premises, the proprietor must segregate products as follows:
- (1) Wine operations. (i) Prior to alternation from distilled spirits plant premises to wine premises, the proprietor must remove all distilled spirits, denatured spirits, articles, and wine from the distilled spirits plant premises that will be alternated. However, the proprietor may keep spirits on the premises if they are being withdrawn for use in wine production under § 19.419, or for use in the production of nonbeverage wine or wine products under § 19.421. Further, the proprietor may keep wine on the premises if it is to be transferred in bond under § 19.402(b)(2).
 - (ii) Prior to alternation from wine premises to distilled spirits plant premises, the proprietor must remove all wine and spirits from the wine premises that will be alternated. However, the proprietor may keep wine on the premises if it is being transferred in bond under § 19.402(b)(1). Further, the proprietor may keep spirits on the premises if they are being returned from bonded wine cellar premises to distilled spirits plant bonded premises under § 19.454.
- (2) Brewery. Prior to alternation from distilled spirits plant premises to operation of a brewery the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated to brewery premises. Prior to alternation of brewery premises to distilled spirits plant premises, the proprietor must remove all beer from the premises except beer that is being received for

production of distilled spirits as provided in § 19.296.

(3) General premises. Prior to alternation between bonded and general premises, the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated. However, the proprietor may keep bonded spirits on portions of bonded premises to be alternated to general premises if the spirits are taxpaid concurrently with the alternation. Also, the proprietor may keep taxpaid spirits on general premises that will be alternated to bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart Q of this part.

(4) Manufacture of nonbeverage products. Prior to alternation of the distilled spirits plant premises for use in the manufacture of eligible flavors, the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated. However, the proprietor may keep spirits on portions of the premises to be curtailed if the proprietor pays the tax concurrent with the alternation. Further, the proprietor may keep taxpaid spirits that have not been used in the manufacture of a nonbeverage product on parts of the premises to be included in the extension of the bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart Q of this part.

(e) Records. The proprietor must prepare the record of alternating premises prescribed by § 19.627 each time that the proprietor alternates premises.

(26 U.S.C. 5172, 5178)

§ 19.144 Alternation of distilled spirits plant and volatile fruit-flavor concentrate plant premises.

The proprietor may temporarily extend or curtail the distilled spirits plant premises for alternate use with the premises of a contiguous volatile fruit-flavor concentrate plant. If a proprietor wishes to use all or a portion of the premises alternately as a volatile fruit-flavor concentrate plant or vice versa, the proprietor must comply with the requirements of §§ 18.39 and 18.41 through 18.43 of this chapter.

(26 U.S.C. 5172, 5178)

NOTIFICATION TO TTB WHEN BEGINNING OR
SUSPENDING PRODUCTION OPERATIONS

§ 19.292 Notice of operations.

A proprietor authorized to produce distilled spirits may not commence, suspend, or resume production operations at the plant without first providing written notice to TTB.

(a) Beginning operations. A proprietor must file a letterhead notice with the appropriate TTB officer before beginning or resuming production operations. A proprietor must not begin or resume operations before the time specified in the notice.

(b) Suspending operations. If a proprietor intends to suspend production

operations for a period of 90 days or more, the proprietor must file a letterhead notice with the appropriate TTB officer specifying the date on which operations will be suspended.

(c) Discontinuing reports. A proprietor is not required to prepare or file reports of production operations under subpart V of this part for periods during which production operations are suspended.

(26 U.S.C. 5221)

§ 19.627 Alternating premises record.

When distilled spirits plant bonded premises are alternated to or from bonded or taxpaid wine, brewery, manufacturer of nonbeverage products, or general premises, under an approved alternation plan described in the plant registration, the proprietor must record in a logbook, or must maintain in commercial records retrievable and available for TTB inspection upon request, the following information:

(a) The date and hour of the alternation;

(b) The kind of premises being curtailed, including the plant identification number, if applicable;

(c) The kind of premises being extended, including the plant identification number, if applicable;

(d) The identity of the special diagrams in the registration documents depicting the premises before and after the alternation; and

(e) The purpose of the alternation.

(26 U.S.C. 5555)