

§ 19.152

pay all penalties incurred, or fines imposed, for violations of law and regulations relating to activities covered by the bond. The specific terms of the required bond(s) are stated on TTB F 5110.56.

(c) *Corporations and controlled subsidiaries.* For purposes of this subpart, the term “corporation” includes a Limited Liability Company (LLC) or Limited Liability Partnership (LLP) in any jurisdiction where the law authorizes such a business organization to operate. Whenever used in this subpart, the term “controlled subsidiary” means a corporation (or LLC or LLP) in which more than 50 percent of the voting power is controlled by a parent corporation.

(26 U.S.C. 5173, 5551)

§ 19.152 Types of bonds.

(a) *Basic Bonds.* There are two basic types of bonds: the operations bond, and the withdrawal bond.

(1) *Operations bond.* An operations bond covers the tax liability for a variety of operations at a distilled spirits plant, along with any penalties incurred and fines imposed for violation of the law and regulations relating to activities covered by the bond.

(2) *Withdrawal bond.* A withdrawal bond covers the tax liability for tax determined distilled spirits withdrawn from the bonded premises on a tax deferred basis.

(b) *Other bonds.* In addition to the basic operations and withdrawal bonds, several variations of these bonds are available:

(1) An adjacent wine cellar bond covers operations at a distilled spirits plant and an adjacent bonded wine cellar;

(2) An area bond covers operations at two or more distilled spirits plant and any adjacent bonded wine cellars; and

(3) A unit bond covers both operations and withdrawals at one or more distilled spirits plants and operations at any adjacent bonded wine cellars.

(26 U.S.C. 5173)

§ 19.153 Bond guaranteed by a corporate surety.

(a) *Corporate surety.* A company that issues bonds is called a “corporate sur-

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ety.” Proprietors must obtain the surety bonds required by this subpart from a corporate surety approved by the Secretary of the Treasury.

(b) *How to find an approved surety.* The Department of the Treasury publishes a list of approved corporate surety companies in Treasury Department Circular No. 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.” Circular 570 is published annually in the FEDERAL REGISTER. The most current edition of the circular is posted at the Web site of the Financial Management Service, Department of the Treasury at <http://www.fms.treas.gov/c570>. Printed copies of Circular 570 are available for purchase from the Government Printing Office.

(31 U.S.C. 9304, 9306)

§ 19.154 Bond guaranteed by deposit of securities.

(a) *General.* As an alternative to the corporate surety bond under § 19.153, a person can file a bond that guarantees payment of the liability by pledging one or more acceptable negotiable securities. These securities must have a par value (face amount) equal to or greater than the penal sums of the required bonds. The pledged securities are held in the Federal Reserve Bank in a safekeeping account with TTB as the pledgee. Should the proprietor fail to pay one or more of the guaranteed liabilities, TTB can take action to sell the deposited securities to satisfy the debt. Pledged securities will be released if there are no outstanding liabilities when the bond is terminated. (See § 19.170.)

(b) *Acceptable securities.* Only public debt obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States Government, are acceptable for the purpose described in paragraph (a) of this section. The Department of the Treasury and certain other United States Government agencies issue debt instruments that are acceptable as collateral, such as Treasury notes and Treasury bills. Savings bonds, certificates of deposit and letters of credit are not acceptable. A list of securities acceptable as collateral in

lieu of surety bonds is available from the Bureau of the Public Debt, Office of the Commissioner, Government Securities Regulations Staff. Current information and guidance from the Bureau of the Public Debt may be found at <http://www.publicdebt.treas.gov>.

(31 U.S.C. 9301, 9303; 31 CFR part 380)

§ 19.155 Change of surety bond terms—consent of surety.

In order to change the terms of an approved bond, both the principal and the surety company that guaranteed the bond must agree to the change. TTB must also approve the change. All changes to the terms of a bond must be executed on form TTB F 5000.18, Change of Bond (Consent of Surety) by both the principal and the surety with the same formality and proof of authority as required for the original bond. The completed, executed TTB F 5000.18 must be submitted to the National Revenue Center.

(26 U.S.C. 5173)

§ 19.156 Power of attorney for surety.

(a) *Requirement for power of attorney.* Every bond and every consent of surety filed with TTB in which an agent or officer executed the bond or consent on behalf of the surety must be supported by a power of attorney authorizing the agent or officer to execute the bond or consent of surety. The power of attorney assures TTB that the person who signed the bond on behalf of the surety has the legal authority to obligate the surety.

(b) *Form of power of attorney and endorsement.* A power of attorney will be prepared on the surety's own form, and must be executed under the surety's corporate seal. If the power of attorney submitted is other than a manually signed original, it must be accompanied by a certification from the surety that the power of attorney is valid.

(c) *Additional documentation.* The appropriate TTB officer authorized to approve and accept the bond may require additional evidence of the authenticity of signatures and the authority of persons signing on behalf of the surety to execute the bond or consent.

(31 U.S.C. 9304, 9306)

§ 19.157 Disapproval of bonds and consents of surety.

(a) *Grounds for disapproval.* The appropriate TTB officer may disapprove any bond or consent of surety required by this part if the principal or any person having ownership, control or responsibility for actively managing the business of the surety has been previously convicted, in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of any law of the United States relating to internal revenue or customs taxation of spirits, wines, or beer, or if the offense was compromised by payment of penalties or otherwise, or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(b) *Appeal.* If the appropriate TTB officer disapproves a bond or consent of surety, the person giving the bond may appeal the disapproval to the Administrator, who will hear the appeal. The decision of the Administrator will be final.

(26 U.S.C. 5551)

REQUIREMENTS FOR OPERATIONS AND WITHDRAWAL BONDS

§ 19.161 Operations bond.

(a) *General.* Any person who intends to establish a distilled spirits plant must furnish an operations bond (or a unit bond, see §19.165) covering distilled spirits operations at such plant on TTB F 5110.56 with the original application to register the distilled spirits plant.

(b) *Approval of bond.* The appropriate TTB officer may require a statement, executed under the penalty of perjury, as to whether the principal, or any person owning, controlling, or managing the business of the applicant has been convicted of, or has compromised any offense listed in §19.157(a)(1), or has been convicted of any offense listed in §19.157(a)(2). If the above statement