

grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) Own production

For purposes of this subchapter the term “own production”, when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar, whether or not produced by a predecessor in interest at such bonded wine cellar. This term may also include, under regulations, wine produced by fermentation in bonded wine cellars owned or controlled by the same or affiliated persons or firms when located within the same State; the term “affiliated” shall be deemed to include any one or more bonded wine cellar proprietors associated as members of any farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211).¹

(g) Liquid sugar

For purposes of this subchapter the term “liquid sugar” means a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix.)

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 89-44, title VIII, §806(b)(3), June 21, 1965, 79 Stat. 163; Pub. L. 94-455, title XIX, §1905(a)(21), Oct. 4, 1976, 90 Stat. 1820.)

REFERENCES IN TEXT

Section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211), referred to in subsec. (f), was renumbered section 117(a)(5) of the Federal Alcohol Administration Act by Pub. L. 100-690, title VIII, §8001(a)(2), Nov. 18, 1988, 102 Stat. 4517, and is classified to section 211(a)(5) of Title 27, Intoxicating Liquors.

PRIOR PROVISIONS

A prior section 5392, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-455 struck out “49 Stat. 990;” before “27 U.S.C. 211”.

1965—Subsec. (c). Pub. L. 89-44, §806(b)(3)(A), added fruit, grain, or other sources of starch to cane and beets as sources of “pure sugar”.

Subsec. (g). Pub. L. 89-44, §806(b)(3)(B), added subsec. (g).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

¹ See References in Text note below.

Subchapter G—Breweries

Part	
I.	Establishment.
II.	Operations.

PRIOR PROVISIONS

A prior subchapter G consisted of parts I and II, contained sections 5401 to 5403 and 5411 to 5416, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT

Sec.	
5401.	Qualifying documents.
5402.	Definitions.
5403.	Cross references.

PRIOR PROVISIONS

A prior part I consisted of sections 5401 to 5403 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5401. Qualifying documents

(a) Notice

Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary a notice in writing, in such form and containing such information as the Secretary shall by regulations prescribe as necessary to protect and insure collection of the revenue.

(b) Bonds

Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned (1) that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; (2) that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053(a), which beer is not exported or returned to the brewery; and (3) that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary, the brewer shall execute a new bond or a continuation certificate, in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond or continuation certificate shall be in lieu of any former bond or bonds, or former continuation certificate or certificates, of such brewer in respect to all liabilities accruing after its approval. If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force between the parties for a succeeding period of not less than 4 years, the brewer may submit, in lieu of a new bond, a certificate executed, under penalties of perjury, by the brewer and the surety attesting to continuation of the bond, which certificate shall constitute a bond subject to all provisions of law applicable to bonds given pursuant to this section.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1388; amended Pub. L. 91-673, §3(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5401, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (b). Pub. L. 91-673 permitted bonding requirement to be satisfied by continuation of an existing bond, with such continuation being subject to Government approval in the same manner as a new bond and required that the continuation certificate be executed by both the brewer and the surety, under penalties of perjury.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5402. Definitions

(a) Brewery

The brewery shall consist of the land and buildings described in the brewer’s notice. The continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions; and if parts of the brewery are so separated they must abut on the dividing medium and be adjacent to each other. Notwithstanding the preceding sentence, facilities under the control of the brewer for case packing, loading, or storing which are located within reasonable proximity to the brewery packaging facilities may be approved by the Secretary as a part of the brewery if the revenue will not be jeopardized thereby.

(b) Brewer

For definition of brewer, see section 5052(d).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(b), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109-59, title XI, §11125(b)(17), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5402, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59 substituted “section 5052(d)” for “section 5092”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1971—Subsec. (a). Pub. L. 91-673 inserted proviso to definition of “Brewery” that the continuity of the brewery must be unbroken except where separated by

public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions, with the exception that the Secretary approve facilities under the control of the brewer for case packing, loading, or storing, which are located within reasonable proximity to the brewery as a part of the brewery if the revenue will not be jeopardized thereby.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5403. Cross references

(1) For authority of Secretary to disapprove brewers’ bonds, see section 5551.

(2) For authority of Secretary to require the installation and use of meters, tanks, and other apparatus, see section 5552.

(3) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5403, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1982—Par. (3). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”.

1976—Par. (1). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

PART II—OPERATIONS

Sec.	
5411.	Use of brewery.
5412.	Removal of beer in containers or by pipeline.
5413.	Brewers procuring beer from other brewers.
5414.	Removals from one brewery to another belonging to the same brewer.
5415.	Records and returns.
5416.	Definitions of package and packaging.
5417.	Pilot brewing plants.
5418.	Beer imported in bulk.

PRIOR PROVISIONS

A prior part II consisted of sections 5411 to 5416, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1421(b), Aug. 5, 1997, 111 Stat. 1049, added item 5418.

1971—Pub. L. 91-673, §4(b), Jan. 12, 1971, 84 Stat. 2058, substituted “Definitions of package and packaging” for “Definitions of bottle and bottling” in item 5416 and added item 5417.

§ 5411. Use of brewery

The brewery shall be used under regulations prescribed by the Secretary only for the purpose of producing, packaging, and storing beer, cereal

beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and of soft drinks; for the purpose of processing spent grain, carbon dioxide, and yeast; and for such other purposes as the Secretary by regulation may find will not jeopardize the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(c), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5411, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Pub. L. 91-673 struck out requirement of separate facilities for bottling of beer and cereal beverages and permitted use of brewery for packaging and storing beer and other cereal beverages.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5412. Removal of beer in containers or by pipeline

Beer may be removed from the brewery for consumption or sale only in hogsheads, packages, and similar containers, marked, branded, or labeled in such manner as the Secretary may by regulation require, except that beer may be removed from the brewery by pipeline to contiguous distilled spirits plants under section 5222.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(d), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5412, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1971—Pub. L. 91-673 substituted “packages,” for “barrels, kegs, bottles.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5413. Brewers procuring beer from other brewers

A brewer, under such regulations as the Secretary shall prescribe, may obtain beer in his

own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5054.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5413, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5414. Removals from one brewery to another belonging to the same brewer

Beer may be removed from one brewery to another brewery belonging to the same brewer, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe. The removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (1) one such corporation owns the controlling interest in the other such corporation, or (2) the controlling interest in each such corporation is owned by the same person or persons.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5414, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5415. Records and returns

(a) Records

Every brewer shall keep records, in such form and containing such information as the Secretary shall prescribe by regulations as necessary for protection of the revenue. These records shall be preserved by the person required to keep such records for such period as the Secretary shall by regulations prescribe, and shall be available during business hours for examination and taking of abstracts therefrom by any internal revenue officer.

(b) Returns

Every brewer shall make true and accurate returns of his operations and transactions in the form, at the times, and for such periods as the Secretary shall by regulation prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5415, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5416. Definitions of package and packaging

For purposes of this subchapter, the term “package” means a bottle, can, keg, barrel, or other original consumer container, and the term “packaging” means the filling of any package.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 91-673, §3(e), Jan. 12, 1971, 84 Stat. 2057.)

PRIOR PROVISIONS

A prior section 5416, act Aug. 16, 1954, ch. 736, 68A Stat. 676, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1971—Pub. L. 91-673 substituted definitions of package and packaging for definitions of bottle and bottling.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5417. Pilot brewing plants

Under such regulations as the Secretary may prescribe, and on the filing of such bonds and applications as he may require, pilot brewing plants may, at the discretion of the Secretary be established and operated off the brewery premises for research, analytical, experimental, or development purposes with regard to beer or brewery operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter.

(Added Pub. L. 91-673, §4(a), Jan. 12, 1971, 84 Stat. 2057; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as an Effective Date of 1971 Amendment note under section 5056 of this title.

§ 5418. Beer imported in bulk

Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn

from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.

(Added Pub. L. 105-34, title XIV, §1421(a), Aug. 5, 1997, 111 Stat. 1049.)

EFFECTIVE DATE

Section 1421(c) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

Subchapter H—Miscellaneous Plants and Warehouses

- Part I. Vinegar plants.
- II. Volatile fruit-flavor concentrate plants.
- [III. Repealed.]

PRIOR PROVISIONS

A prior subchapter H consisted of parts I to III, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(9), July 26, 1979, 93 Stat. 291, struck out item relating to Part III “Manufacturing bonded warehouses” in table of Parts comprising Subchapter H.

PART I—VINEGAR PLANTS

- Sec. 5501. Establishment.
- 5502. Qualification.
- 5503. Construction and equipment.
- 5504. Operation.
- 5505. Applicability of provisions of this chapter.

PRIOR PROVISIONS

A prior part I consisted of sections 5501 and 5502, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5501. Establishment

Plants for the production of vinegar by the vaporizing process, where distilled spirits of not more than 15 percent of alcohol by volume are to be produced exclusively for use in the manufacture of vinegar on the premises, may be established under this part.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1390.)

PRIOR PROVISIONS

A prior section 5501, act Aug. 16, 1954, ch. 736, 68A Stat. 677, made a cross reference to provisions pertaining to establishment and operation of vinegar factories, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior section 5216(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5502. Qualification

(a) Requirements

Every person, before commencing the business of manufacturing vinegar by the vaporizing