

§ 19.930

27 CFR Ch. I (4-1-10 Edition)

the new location prior to 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. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

ALTERNATE OPERATIONS

§ 19.930 Alternating proprietorship.

(a) *General.* (1) An alcohol fuel plant, or a part thereof, may be operated alternately by proprietors if—

(i) The alcohol fuel plant and the proprietors are otherwise qualified under the provisions of this subpart, and

(ii) The necessary operations bonds (if any) and applications covering such operations have been filed with and approved by the appropriate TTB officer.

(2) Where alternating proprietorship is to be limited to a part of a plant, that part must be suitable for qualification as a separate plant.

(b) *Qualifying Documents.* Each person desiring to operate an alcohol fuel plant as an alternating proprietor shall file with the appropriate TTB officer:

(1) An application on Form 5110.74 to cover the proposed alternation of premises.

(2) Diagram of premises, in duplicate, showing the arrangement under which the premises will be operated. Diagrams will be prepared in accordance with paragraph (c) of this section.

(3) Evidence of existing operations bond (if any), consent of surety, or a new operations bond to cover the proposed alternation of premises.

(4) When required by the appropriate TTB officer, additional information as may be necessary to determine whether the application should be approved.

(c) *Diagram of premises.* Each person filing an application for operation of a plant as an alternating proprietor shall submit a diagram of the premises. Where operations by alternating proprietors are limited to parts of a plant, a diagram which designates the parts of the plant that are to be alternated will be submitted. A diagram will be submitted for each arrangement under which the premises will be operated. The diagram will be in sufficient detail to establish the boundaries of the plant

or any part thereof which is to be alternated.

(d) *Alternation Journal.* Once the applications have been approved and initial operations conducted thereunder, the plant, or parts thereof, may be alternated. The outgoing and incoming proprietor shall enter into an alternation journal the following information:

- (1) Name or trade name;
- (2) Alcohol fuel plant permit number;
- (3) Date and time of alternation; and
- (4) Quantity of spirits transferred in proof gallons.

The alternation journal will remain in the possession of the incoming proprietor until the premises are again alternated whereupon it will be transferred to the new incoming proprietor.

(e) *Commencement of operations.* Except for spirits transferred to the incoming proprietor, the outgoing proprietor shall remove all spirits from areas, rooms, or buildings to be alternated, prior to the effective date and time shown in the alternation journal. Fuel alcohol may be either transferred to the incoming proprietor or may be retained by the outgoing proprietor in areas, rooms, or buildings to be alternated when the areas, rooms, or buildings are secured with locks, the keys to which are in the custody of the outgoing proprietor. Whenever operation of the areas, rooms, or buildings is to be resumed by a proprietor following suspension of operations by an alternating proprietor, the outgoing proprietor (except proprietors of small plants) must furnish a consent of surety on Form 1533 (5000.18) to continue in effect the operations bond covering his operations. This is to be done prior to alternating the premises.

(f) *Records.* Each proprietor shall maintain separate records and submit separate reports. All transfers of spirits will be reflected in the records of each proprietor. The quantity of spirits and fuel alcohol transferred will be shown in the production and disposition records of the outgoing proprietor. The quantity of spirits transferred will be shown in the receipt record of the incoming proprietor. Each outgoing and incoming proprietor shall include spirits transferred in determinations of

plant size and bond amounts. The provisions of §19.921 regarding change in type of plant are applicable to each proprietor. Entries into these records will be in the manner prescribed in §§19.982, 19.984, and 19.986.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271; sec. 805(a), Pub. 96-39, 93 Stat. 275 (26 U.S.C. 5171); sec. 232 Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

PERMANENT DISCONTINUANCE OF
BUSINESS

§ 19.945 Notice of permanent discontinuance.

A proprietor who permanently discontinues operations as an alcohol fuel plant shall, after completion of the operations, file a letterhead notice with the appropriate TTB officer. The notice shall be accompanied—

(a) By the alcohol fuel producer's permit, and by the proprietor's request that such permit be canceled;

(b) By a written statement disclosing, as applicable, whether (1) all spirits (including fuel alcohol) have been lawfully disposed of, and (2) any spirits are in transit to the premises; and

(c) By a report covering the discontinued operations (the report shall be marked "Final Report").

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

SUSPENSION OR REVOCATION OF PERMITS

§ 19.950 Suspension or revocation.

Whenever the appropriate TTB officer has reason to believe that any person holding an alcohol fuel producer's permit—

(a) Has not in good faith complied with the applicable provisions of 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) Has violated conditions of the permit; or

(c) Has made any false statements as to any material fact in the application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C. punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the appropriate TTB officer may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR part 71.

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

BONDS

§ 19.955 Bonds.

An operations bond is required for medium and large plants. The bond will be executed, in duplicate, on Form 5110.56. Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570. However, in lieu of corporate surety the proprietor may pledge and deposit as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225. The appropriate TTB officer will not release such securities until liability under the bond for which they were pledged has been terminated.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173); CH. 390, Pub. L. 80-280, 61 Stat. 648, 650 (31 U.S.C. 9301, 9303, 9304, 9306); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.956 Amount of bond.

The penal sum of the bond is based on the total quantity of distilled spirits to be produced (including receipts) during a calendar year. If the level of production and/or receipts at the plant is to be increased, and the bond is not in the maximum penal sum, a new or strengthening bond shall be obtained.

(a) *Medium plants.* A medium plant which will produce (including receipts) between 10,000 and 20,000 proof gallons of spirits per year requires a bond in