

the following rules apply to a successor who is a fiduciary:

(1) The successor may furnish a consent of surety to extend the terms of the outgoing proprietor's bond instead of filing a new bond;

(2) The successor may incorporate by reference in the application on TTB F 5110.74 any information that is still valid and that was contained in the application filed by the outgoing proprietor;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document appointing the successor as a fiduciary; and

(4) The effective dates of the qualifying documents filed will be the date of the court order, the date specified in the court order for assuming control or the date control is assumed if the fiduciary was not appointed by a court.

(26 U.S.C. 5172, 5181)

#### § 19.689 Continuing partnerships.

(a) If there is a death or insolvency of a partner in the business that holds a permit under this subpart, the surviving partner or partners may continue to operate under the permit if:

(1) The partnership is not immediately terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have the exclusive right to control and possession of the partnership assets for purpose of liquidation and settlement; and

(3) In the case of a plant required to file a bond, a consent of surety is filed under which the surety and the surviving partner or partners agree to remain liable on the bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file an application in their own name and receive a permit in accordance with § 19.688(a).

(26 U.S.C. 5172, 5181)

#### § 19.690 Change in location.

If there is a change in the location of the alcohol fuel plant or of the area included within the plant premises, the proprietor must:

(a) File an application to amend the permit on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, or a letterhead application to amend the permit;

(b) File a new bond on form TTB F 5110.56 or a consent of surety on form TTB F 5000.18 if a bond is required; and

(c) Not begin operations at the new location prior to approval of the amended application and issuance of the amended permit.

(26 U.S.C. 5172, 5181)

#### § 19.691 Change in address without change in location or area.

If there is a change in the address of an alcohol fuel plant that does not involve a change in the location or area of the plant itself, the proprietor must submit a letterhead notice to the appropriate TTB officer within 30 days of the change.

(26 U.S.C. 5172, 5181)

#### ALTERNATING PROPRIETORSHIP

#### § 19.692 Qualifying for alternating proprietorship.

(a) *General.* A proprietor may alternate use of an alcohol fuel plant or part of an alcohol fuel plant with one or more proprietors qualified under this subpart. In order to do so, each proprietor must file and receive approval of the applications and bonds required by this subpart. Each proprietor must also conduct operations and keep records in accordance with this subpart. Where operations by alternating proprietors will be limited to part of an alcohol fuel plant, that part must be suitable for qualification as a separate alcohol fuel plant.

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

(1) An application on form TTB F 5110.74, Application and Permit for an Alcohol Fuel Producer Under 26 U.S.C. 5181, to cover the proposed alternation;

(2) A diagram of the premises, in duplicate, showing the arrangement for the alternation of the premises. Where operations by alternating proprietors are limited to parts of an alcohol fuel

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plant, a diagram designating the parts that are to be alternated must be submitted. A diagram must be submitted for each arrangement under which the premises will be operated. The diagram must be in sufficient detail to establish the boundaries of the alcohol fuel plant or any part of it that will be involved in the alternation;

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

(4) Any additional information required by the appropriate TTB officer.

(26 U.S.C. 5171, 5181, 5271)

### **§ 19.693 Operating requirements for alternating proprietorships.**

(a) *Alternation journal.* Once the applications submitted under § 19.692 have been approved by the appropriate TTB officer, the alcohol fuel plant, or parts of the alcohol fuel plant, may be alternated. The outgoing and incoming proprietor must make entries in an alternation journal when the alcohol fuel plant, or parts of it, are alternated. The outgoing and incoming proprietor must enter the following information in the alternation journal:

(1) Name or trade name of the proprietor;

(2) Alcohol fuel plant permit number;

(3) Date and time of alternation;

(4) Quantity of spirits transferred in proof gallons.

(b) *Commencement of operations.* Except for spirits transferred to the incoming proprietor, the outgoing proprietor must 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 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 the proprietor of a small plant not required to file a bond) must furnish a consent of surety on form TTB F

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5000.18 to continue in effect the operations bond covering his operations. The proprietor must do this prior to alternating the premises.

(c) *Records.* Each alternating proprietor must maintain separate records and submit separate reports in accordance with § 19.720. Entries in each proprietor's records must be in accordance with §§ 19.714 through 19.718 of this subpart. The following requirements also apply:

(1) Each alternating proprietor must show all transfers of spirits in the records;

(2) The outgoing proprietor must show in its production and disposition records the quantity of spirits and fuel alcohol transferred to the incoming proprietor;

(3) The incoming proprietor must show in his receipt record the quantity of spirits received by transfer;

(4) Each proprietor must include spirits transferred in the determinations of alcohol fuel plant size and bond amounts; and

(5) The provisions of § 19.685 regarding change of alcohol fuel plant type apply to each proprietor.

(26 U.S.C. 5171, 5181, 5271)

### **DISCONTINUANCE OF BUSINESS AND PERMIT SUSPENSION OR REVOCATION**

### **§ 19.695 Notice of permanent discontinuance.**

When a proprietor permanently discontinues operations as an alcohol fuel plant, the proprietor must file a letterhead notice with the appropriate TTB officer along with the following:

(a) The original copy of the alcohol fuel plant permit and the proprietor's request that the permit be cancelled;

(b) A written statement disclosing whether or not all spirits, including fuel alcohol, have been lawfully disposed of, and whether or not there are any spirits in transit to the premises; and

(c) A report on form TTB 5110.75, Alcohol Fuel Plant Report, covering the discontinued operations, with the report marked "Final Report".

(26 U.S.C. 5181, 5271)