

2009 TTB Expo Presentation

Distilled Spirits Plant Applications

Presented by

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Overview

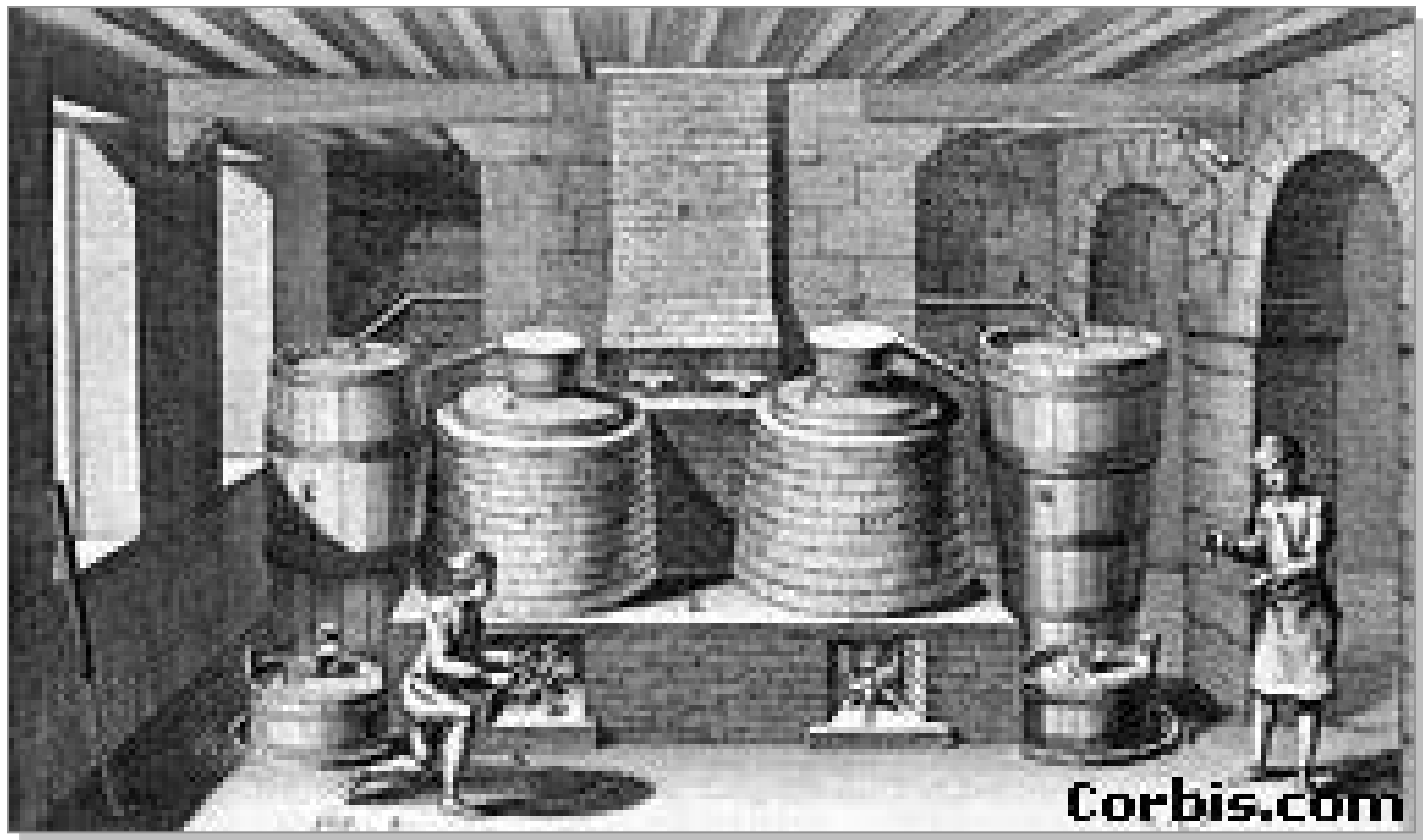
- Definitions
- Laws and Regulations Governing Distilled Spirits Plant (DSP) Operations
- Forms and Documents Required to be Filed with TTB
- Miscellaneous Information

DSP Definition

- **Distilled Spirits Plant:**

An establishment where Beverage or Industrial Distilled Spirits are:

- Produced (and/or)
- Stored (and/or)
- Processed



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Definitions

- **Beverage DSP** – Produces, processes or stores distilled spirits which will be used for beverage purposes. Qualifies under the FAA Act
 - Exception: A DSP that only stores beverage spirits
- **Industrial DSP** – Produces, processes or stores distilled spirits which are used for nonbeverage purposes; qualifies under an IRC Operating Permit

Definitions (Continued)

- **Experimental DSP** – Authorized under 27 CFR 19.65 for experimentation in or development of:
 - Sources of materials from which spirits are produced
 - Processes by which spirits are produced or refined
 - Industrial uses of spirits

Definitions (Continued)

- **Bonded Premises** – That part of the plant where spirits are produced, stored, and/or processed
- **General Premises** – Any other area of the plant which is not bonded premises

Definitions (Continued)

- **Effective Tax Rate** – The net tax rate after reduction for any credit allowance under 26 U.S.C. 5010, for wine and flavor content at which the tax imposed on distilled spirits is paid or determined
- **Current Tax Rate** – \$13.50 per Proof Gallon

Definitions (Continued)

- **Wine Gallon** – A U.S. gallon by ounces
- **Proof** – The percentage of alcoholic content in a wine gallon at 60⁰ F x 2
(1 wine gallon of 50% alcohol = 100 proof)
- **Proof Gallons (PG)** – The proof of the alcohol x total gallons, divided by 100
 - 1 gallon @ 100 Proof (50% spirits) = 1 PG
 - 1 gallon @ 200 Proof (100% spirits) = 2 PG (1 X 2.0 = 2PG)

Definitions (Continued)

- **Bulk Distilled Spirits** – Distilled spirits in excess of 1 gallon
- **Warehousing** – Bulk Storage
- **Tax Periods** – Semi-monthly or quarterly (if annual tax liability is less than \$50,000)

Laws and Regulations

Governing the Operations of a DSP

Laws and Regulations

- Title 27, Code of Federal Regulations (CFR)
- Federal Alcohol Administration Act (FAA Act) – for beverage spirits only
- Internal Revenue Code (IRC) 26 U.S.C.

Laws and Regulations (Continued)

- **Regulations** applicable to distilled spirits:
 - Part 19 – Distilled Spirits Plants
 - Part 1 – Basic Permit Requirements
 - Part 5 – Labeling and Advertising
 - Part 16 – Health Warning Statement
 - Part 26 – Imports from Puerto Rico and the U.S. Virgin Islands
 - Part 27 – Other Importations of Spirits
 - Part 28 – Exportation of Alcohol
 - Part 30 – Gauging Manual

Laws and Regulations (Continued)

- **FAA Act:**
 - Regulates beverage alcohol only
 - Basic Permit issued under this Act

Laws and Regulations (Continued)

- **Internal Revenue Code** governs:
 - Distilled spirits excise tax
 - Qualification and Operation of distilled spirits plants

Laws and Regulations (Continued)

See the “RESEARCH RESOURCES” box on TTB home page for Laws and Regulations at www.ttb.gov

DSP Application Filing Requirements

Forms and Documents Required to be Filed with TTB
and Miscellaneous Information

DSP Filing Requirements

- Three major forms Required to Qualify as a DSP:
 - Permit Application:
 - Basic Permit, TTB F 5100.24, and/or
 - Operating Permit, TTB F 5110.25
 - Registration of DSP, TTB F 5110.41
 - DSP Bond, TTB F 5110.56

Basic Permit

Basic Permit Application

- For beverage spirits – Qualify to conduct operations as a:
 - Distiller
 - Warehouseman and Bottler
 - Processor (Rectifier)

Application for Basic Permit
TTB F 5100.24

Operating Permit

Application for Operating Permit

- For industrial use spirits – Qualify to conduct operations as:
 - Distiller
 - Warehouseman
 - Denaturer
 - Bottler/Packager
 - Manufacturer of Articles

Application for Operating Permit
TTB F 5110.25

DSP Registration

Registration of DSP under the IRC

- Type of operations:
 - Distiller
 - Warehouseman
 - Processor who:
 - Bottles, denatures, and/or manufactures articles

DSP Registration
TTB F 5110.41

DSP Registration (Continued)

- Supplemental pages to registration:
 - Identifies legal entity
 - Describes bonded and general premises
 - List security measures and equipment
 - Includes statements of proposed operations
 - Identifies other businesses conducted on plant premises

DSP Registration
TTB F 5110.41

DSP Bond

Types of DSP Bonds

- Operations Bond (Required)
 - (a) One Plant Bond
 - (b) Adjacent Wine Cellar Bond
 - (c) Area Bond
- Withdrawal Bond (Optional)
- Unit Bond (operations and withdrawal coverage)

DSP Bond
TTB F 5110.56

DSP Bond – Additional Data

- Operations Coverage Penal Sum:
 - Minimum is \$5,000
 - Maximum is \$250,000 (\$300,000 for DSP with BWC)
- Must be sufficient to cover tax liability on spirits produced during a period of 15 days, deposited in, stored on, or in transit to the bonded premises

27 CFR 19.245

DSP Bond – Additional Data (Continued)

- Withdrawal Coverage Penal Sum:
 - Minimum is \$1,000
 - Maximum is \$1,000,000
- Must be sufficient to cover spirits removed from bond on determination but before payment of tax

Other DSP Forms

- Signing Authority, TTB F 5000.8 or TTB F 5100.1
- Personnel Questionnaires, TTB F 5000.9
- Environmental Information, TTB F 5000.29
- Water Quality, TTB F 5000.30

Other DSP Forms (Continued)

- Other forms that may be required:
 - TTB F 5100.16, Application for Transfer of Spirits in Bond – Required when bulk spirits are received from another DSP
 - TTB F 5000.18, Change in Bond (Consent of Surety) – Required to extend terms of bond

Organizational Documents

- Certificate of incorporation/organization
- Certificate to operate in a foreign State
- Partnership agreement
- Bylaws or operating agreement
- List of stockholders, officers, and directors
- Trade name registration

Other Information Required

- Source of funds documentation
- Lease agreement (if applicable)
- Loan documents (if applicable)
- Legible photocopy of Driver's License or official State ID card for primary contact person who will be interviewed by TTB regarding application
- Statement regarding National Historic Preservation Act coverage

Common Problems

- Inconsistencies in entity name on application
- Missing application forms
- Registration – Supplemental Pages missing or incomplete
- Inconsistency in operations applied for on application forms
- Bond errors

Common Problems (Continued)

- Source of Funds documentation missing or insufficient
- Legal Documents missing
- Lease Agreement missing

Consider This!

- How about Your Cash Flow?
 - Is it sufficient for day-to-day operations?
 - Can you pay your bond premiums?
- DSP Operations are **Highly Regulated**
 - Standards of identity of products
 - Formula and label approval required
 - Bottle size and case markings

Paperwork

- DSP must keep daily records of operations authorized by their permit:
 - Production Account
 - Storage Account
 - Processing Account

Paperwork (Continued)

- Monthly Reports of Operations (as qualified):
 - Monthly Report of Production
 - Monthly Report of Storage (up to 4)
 - Domestic/Virgin Islands/Puerto Rico/Other
 - Monthly Report of Processing
 - Monthly Report of Processing (Denaturing)

Summary

- Definitions
- Laws and Regulations Governing DSP Operations
- Forms and Documents to be Filed with TTB
- Miscellaneous Information

Contact Information

National Revenue Center

Phone: (513) 684-7150

Mail: Spirits Application Section
550 Main Street, Suite 8002
Cincinnati, OH 45202