

2009 TTB Expo Presentation

Alcohol Fuel Plants: Required Records and Reports

Presented by
Marty Frierson, TAD and
Janet Counts, NRC



Overview

- Identify laws and regulations related to production of fuel alcohol
- List qualification requirements
- List allowable activities
- Identify reporting and recordkeeping requirements
- Discuss compliance concerns

Laws and Regulations

Law – Distilled Spirits for Fuel Use

- 26 U.S.C. 5181, effective April 2, 1980:
 - Authorizes production, processing and storing, using and distributing distilled spirits, to be used exclusively for fuel use
 - Waives many provisions of the IRC
 - Allows withdrawal of distilled spirits from alcohol fuel plants (AFPs) free of tax if:
 - Used only for fuel use
 - Completely denatured to be unfit for consumption

Regulations

- 27 CFR 19.901 – 19.1010, Subpart Y
- 27 CFR Part 19, Subparts A through X and all provisions of 26 U.S.C. Chapter 51 are waived, except:
 - Any provision specifically incorporated into Subpart Y
 - Any provision requiring tax payment
 - Any provision dealing with penalty, seizure, or forfeiture

Regulations (Continued)

- Requires spirits be completely denatured before removal from the premises for transfer to a gasoline blender or exportation
- Three categories of AFPs:
 - **Small** — Annual production/receipt of not more than 10,000 proof gallons
 - **Medium** — Annual production/receipt of more than 10,000 and not more than 500,000 proof gallons
 - **Large** — Annual production/receipt of more than 500,000 proof gallons

Qualification Requirements

Small AFP Qualification

- Production (including receipts) of not more than 10,000 proof gallons per calendar year
- Application, TTB F 5110.74:
 - Name, mailing address, and location
 - Diagram of premises
 - Still description and capacity
 - Materials to be used for distillation
 - Description of security measures
- No bond required

27 CFR 19.912

Medium AFP Qualification

- Production (including receipts) of more than 10,000 and not more than 500,000 proof gallons per calendar year
- Application, TTB F 5110.74
- Information about each sole proprietor, partner, corporate officer and director
- Statement of maximum proof gallons to be produced and received in calendar year
- Bond, TTB F 5110.56
- Statement about funds to be used and source(s)

Large AFP Qualification

- Production (including receipts) of more than 500,000 proof gallons per calendar year
- Application, TTB F 5110.74
- Statement of maximum proof gallons to be produced and received in calendar year
- Information about each sole proprietor, partner, corporate officer and director AND each interested person

Large AFP Qualification (Continued)

- Statement about funds to be used and source(s)
- Statement about type of business organization and the persons interested in the business
- Organizational documents
- List of the offices authorized to act on behalf of the proprietor or to sign the proprietor's name
- Bond, TTB F 5110.56

Application, TTB F 5110.74

- Information about planned operations:
 - Location
 - Description of stills
 - Materials to be used
 - Security Measures
 - Diagram
- Submitted in triplicate

Bond, TTB F 5110.56

- Required for Medium and Large AFPs
- Bond protects the Government against default
- Principal and surety are jointly and severally liable
- Regulations provide details on computing bond amounts (penal sums)
- Surety bonds must be given with approved sureties, as listed in Treasury Circular 570
- Government securities may be pledged and deposited in lieu of corporate surety
- AFP bond amount is based on annual production and receipts
- Although small AFPs don't need bonds, they do need permits

Bond Amounts

- Medium AFP:
 - Minimum \$2,000 for production/receipts of between 10,000 – 20,000 proof gallons
 - Additional \$1,000 for each 10,000 proof gallons over 20,000 proof gallons
 - Maximum \$50,000

Bond Amounts

- Large AFP:
 - Minimum \$52,000 for production/receipt of more than 500,000 but not more than 510,000 proof gallons in a calendar year
 - Additional \$2,000 for each 10,000 proof gallons over 510,000 proof gallons
 - Maximum \$200,000

Allowable Operations

Allowable Operations

- An AFP may:
 - Obtain a permit to produce or import spirits except from a petroleum derivative
 - Remove spirits from the premises when denatured
 - Use spirits on the plant premises when they have been gauged
 - Use denaturants authorized by TTB

Allowable Operations (Continued)

- An AFP may:
 - Withdraw spirits for fuel use
 - Export denatured spirits (cannot export undenatured spirits)
 - Import ethanol, denatured or undenatured, for shipment to a permittee
 - Can only remove undenatured spirits (without payment of Federal excise tax) if spirits are going to another AFP or DSP

Construction, Equipment and Security

- Premises – Constructed and arranged to deter diversion
- Equipment – Constructed to prevent unauthorized removal of spirits; equipped for locking
- Security – Adequate to deter unauthorized removal of spirits

Gauges

- Gauge required:
 - On completion of production of spirits
 - On receipt of spirits at the plant
 - Prior to the addition of materials to render spirits unfit for beverage use
 - Before withdrawal from premise or other disposition (fuel alcohol – volume only is required)
 - When spirits are to be inventoried
- Method used must be accurate (volume must be temperature-corrected)

Rendering Spirits Unfit for Beverage Use

- Allowable denaturants:
 - Listed in 27 CFR 19.1005(c) and on supplemental list on www.ttb.gov

Recordkeeping and Reporting Requirements

Recordkeeping

- 27 CFR 19.981 Annual Physical Inventory
- 27 CFR 19.982 Records (daily):
 - Quantity (volume or weight) and proof of spirits produced
 - Quantity (volume or weight) of spirits on-hand and received
 - Quantity (volume or weight) and types of materials added to render spirits unfit for beverage use
 - Quantity (volume or weight) of fuel alcohol manufactured
 - Disposition of spirits and fuel alcohol

Recordkeeping (Continued)

- Medium and Large Plants:
 - Records must also state the kind and quantity of materials used to produce spirits
- Operations must be verifiable by TTB
- Commercial records may be used
- Entries are made on day the operation or transaction occurs

Reporting

- Alcohol Fuel Plant Report, TTB F 5110.75
- Filed on a calendar year basis
- Due January 30 after the close of the year
- Special Occupational Tax return was eliminated effective 7/1/2008; standard SOT F 5630.5 applies only to someone who owes SOT from prior years (before 7/1/2008)

Compliance Concerns

- Transfer in bond of undenatured spirits to a DSP or AFP not used for fuel use
- Exported spirits produced by an AFP not denatured
- Use of denaturants that have not been approved by TTB (27 CFR 19.1005)
- Approved formulas are based on volume (not weight)

How Can I Learn More?

- www.ttb.gov

Summary

- Identify laws and regulations related to production of fuel alcohol
- List qualification requirements
- List allowable activities
- Identify reporting and recordkeeping requirements
- Discuss compliance concerns

Contact Information

- Recordkeeping:
 - Marty Frierson, Excise Tax Auditor – Dallas Field Office;
Phone: (214) 767-3971;
Cell: (214) 789-1810; [REDACTED]
 - Dave Bateman, Industry Analyst – DSP;
Phone: (816) 623-9405; Cell: (202) 302-3859;
[REDACTED]
- For more information:
 - Contacts:
<http://www.ttb.gov/about/contact.shtml#general>
 - Alcohol fuel:
http://www.ttb.gov/industrial/alcohol_fuel.shtml