

Subpart D—Qualification

APPLICATION FOR PERMIT, FORM 5150.22

§ 22.41 Application for industrial alcohol user permit.

(a) *Users.* Each person desiring to withdraw and use tax-free alcohol shall, before commencing business, file an application on Form 5150.22 for, and obtain a permit, Form 5150.9, except permittees who were previously qualified to withdraw and use tax-free alcohol on the effective date of this regulation.

(b) *Filing.* All applications and necessary supporting documents, as required by this subpart, shall be filed with the appropriate ATF officer. All data, written statements, affidavits, and other documents submitted in support of the application are considered a part of the application.

(1) Applications filed as provided in this section, shall be accompanied by evidence establishing the authority of the officer or other person to execute the application.

(2) A State, political subdivision thereof, or the District of Columbia, may specify in the application that it desires a single permit authorizing the withdrawal and use of tax-free alcohol in a number of institutions under its control. In this instance, the application, Form 5150.22, or an attachment, shall clearly show the method of distributing and accounting for the tax-free alcohol to be withdrawn.

§ 22.42 Data for application, Form 5150.22.

(a) Unless waived under § 22.43, each application on Form 5150.22 shall include as applicable, the following information:

(1) Serial number and purpose for which filed.

(2) Name and principal business address.

(3) Based on the bona fide requirements of the applicant, the estimated quantity of tax-free alcohol in proof gallons, which will be procured during a 12-month period (one calendar year).

(4) Location, or locations where tax-free alcohol is to be used, if different from the business address.

(5) Statement showing the specific manner in which, or purposes for which, tax-free alcohol will be withdrawn and used.

(6) Statement that tax-free alcohol will be stored in accordance with the requirements of this part.

(7) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 22.45.

(8) Listing of the principal equipment for the recovery and restoration of alcohol (including the serial number, kind, capacity, name and address of manufacturer, and name and address of owner if different from applicant).

(9) List of any trade name(s) under which the applicant will conduct operations, and the offices where these names are registered.

(10) Listing of the titles of offices, the incumbents of which are responsible for the tax-free alcohol activities of the business and are authorized by the articles of incorporation, the by-laws, or the board of directors to act and sign on behalf of the applicant.

(11) Other information and statements as the appropriate ATF officer may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity the appropriate ATF officer may require information which establishes that the officers, directors and principal stockholders whose names are required to be furnished under § 22.45 (a)(2) and (c) have not violated or conspired to violate any law of the United States relating to intoxicating liquor or have been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense.

(b) If any of the information required by paragraphs (a)(4) through (a)(10) of this section is on file with any appropriate ATF officer, the applicant may incorporate this information by reference by stating that the information is made a part of the application.

§ 22.43 Exceptions to application requirements.

(a) The appropriate ATF officer may waive detailed application and supporting data requirements, other than

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the requirements of paragraphs (a)(1) through (a)(6) of § 22.42, and of paragraph (a)(8) of that section as it relates to recovery, in the case of—

(1) All applications, Form 5150.22 filed by States or political subdivisions thereof or the District of Columbia, and

(2) Applications, Form 5150.22, filed by applicants, where the appropriate ATF officer has determined that the waiver of such requirements does not pose any jeopardy to the revenue or a hindrance of the effective administration of this part.

(b) The waiver provided for in this section will terminate for a permittee, other than States or political subdivisions thereof or the District of Columbia, when the permittee files an application to amend the permit and the appropriate ATF officer determines that the conditions justifying the waiver no longer exist. In this case, the permittee will furnish the information in respect to the previously waived items, as provided in § 22.57(a)(2).

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

§ 22.44 Disapproval of application.

The appropriate ATF officer may, in accordance with part 71 of this chapter, disapprove an application for a permit to withdraw and use tax-free alcohol, if on examination of the application (or inquiry), the appropriate ATF officer has reason to believe that:

(a) The applicant is not authorized by law and regulations to withdraw and use alcohol free of tax;

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of their business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued under this part;

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with their application; or

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(d) The premises at which the applicant proposes to conduct the business are not adequate to protect the revenue.

§ 22.45 Organizational documents.

The supporting information required by § 22.42(a)(7) includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(2) Certified list of names and addresses of officers and directors, along with a statement designating which corporate officers, if applicable, are directly responsible for the tax-free alcohol activities of the business.

(3) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of persons owning 10% or more of each of the classes of stock in the corporation, or legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him or her. If a corporation is wholly owned or controlled by another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons must be submitted to the appropriate ATF officer if specifically requested.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the