

Title 27: Alcohol, Tobacco and Firearms

PART 25

BEER

(Excerpts from TTB Regulations pertaining to Beer qualifications and bonds – Visit www.ttb.gov and search the Code of Federal Regulations, Part 25 for a complete copy of applicable brewery regulations.)

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Authority:

19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5148, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

Source:

T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, unless otherwise noted.

Editorial Note:

Nomenclature changes to part 25 appear by T.D. ATF–437, 66 FR 5478, 5479, Jan. 19, 2001.

Subpart C Location and Use of Brewery

§ 25.21 Restrictions on location.

A brewery may not be established or operated in any dwelling house or on board any vessel or boat, or in any building or on any premises where the revenue will be jeopardized or the effective administration of this part will be hindered.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

§ 25.22 Continuity of brewery.

Brewery premises will be unbroken except that they may be separated by public passageways, streets, highways, waterways, carrier rights-of-way, or partitions. If the brewery premises are separated, the parts will abut on the dividing medium and be adjacent to each other. If the brewer has facilities for loading, or for case packing or storage which are located within reasonable proximity to the brewery, the appropriate TTB officer may approve these facilities as part of the brewery if the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

§ 25.23 Restrictions on use.

- (a) **Use of brewery in production of beer or cereal beverage.** A brewery may be used only for the following purposes involving the production of beer or cereal beverages:
- (1) For producing, packaging and storing beer, cereal beverages, vitamins, ice, malt, malt syrup, and other by-products of the brewing process, or soft drinks and other nonalcoholic beverages;
 - (2) For processing spent grain, carbon dioxide, and yeast; and
 - (3) For storing packages and supplies necessary or connected to brewery operations.
- (b) **Other authorized uses.** A brewer may use a brewery for other purposes, not involving the production of beer or cereal beverage, upon approval from the appropriate TTB officer, if the purposes:
- (1) Require the use of by-products or waste from the production of beer;
 - (2) Utilize buildings, rooms, areas, or equipment not fully employed in the production or packaging of beer;
 - (3) Are reasonably necessary to realize the maximum benefit from the premises and equipment and reduce the overhead of the brewery;
 - (4) Are in the public interest because of emergency conditions;
 - (5) Involve experiments or research projects related to equipment, materials, processes, products, by-products, or waste of the brewery; or
 - (6) Involve operation of a tavern on brewery premises in accordance with §25.25.
- (c) **Application.** Except as provided in §25.25 for operation of a tavern on brewery premises, a brewer desiring to use a brewery for other purposes shall submit to the appropriate TTB officer, an application listing the purposes. The appropriate TTB officer will approve the application if the use for other purposes will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–268, 53 FR 8628, Mar 16, 1988]

§ 25.24 Storage of beer.

- (a) **Taxpaid beer.** Beer of a brewer's own production on which the tax has been paid or determined may not be stored in the brewery, except as provided in §25.25 or §25.213. Beer produced by other brewers may be stored at the brewery under the following conditions:
- (1) Taxpaid beer will be segregated in such a manner as to preclude mixing with nontaxpaid beer;
 - (2) If required by Part 1 of this chapter, the brewer shall have a wholesalers or importers basic permit under the Federal Alcohol Administration Act, and keep records of the taxpaid beer as a wholesaler or importer under part 31 of this chapter.
 - (3) Taxpaid beer may be stored in packages;
 - (4) Taxpaid beer may not be relabeled;

- (5) Taxpaid beer may not be shown on required brewery records;
 - (6) The brewer shall purchase a special tax stamp as a wholesaler, if required by part 31 of this chapter; and
 - (7) The appropriate TTB officer may require physical segregation of taxpaid beer, or marking to show the status of taxpaid beer, if necessary to protect the revenue.
- (b) **Untaxpaid beer.** Packaged beer on which tax has not been paid or determined may be stored in any suitable location in the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–268, 53 FR 8628, Mar 16, 1988; T.D. TTB–25, 70 FR 19883, Apr. 15, 2005]

§ 25.25 Operation of a tavern on brewery premises.

- (a) **General.** A brewer desiring to operate a tavern as an alternate use of brewery premises, shall submit a Brewer's Notice, Form 5130.10 containing the information required by paragraph (b) of this section. If the appropriate TTB officer finds that the operation of the tavern on brewery premises will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law, the approval of the Brewer's Notice, Form 5130.10 shall constitute approval of the alternate use of brewery premises, in lieu of the application required by §25.23. As used in this section, "tavern" means a portion of brewery premises where beer is sold to consumers. Food, and/or taxpaid wine, and/or taxpaid distilled spirits may also be sold at a tavern operated on brewery premises. Taxpaid beer produced by other brewers may be received, stored and sold on brewery premises in accordance with §25.24.
- (b) **Brewer's Notice.** In preparing the Brewer's Notice, Form 5130.10, the applicant shall show the following information, in addition to the information required by the form:
- (1) The applicant shall identify the portion of the brewery which will be operated as a tavern by providing a diagram or narrative description of the boundaries of the tavern. The diagram or description shall identify areas of the brewery which are accessible to the public and areas which are not. The applicant shall describe security measures to be used to segregate public areas from non-public areas.
 - (2) The applicant shall describe in detail the method to be used for measuring beer for the purposes of tax determination.
 - (3) The applicant shall identify the tanks which will periodically contain tax-determined beer, and any other areas where tax-determined beer will be stored.
- (c) **Procedures.** The following procedures shall apply to operation of a tavern on brewery premises:
- (1) The brewery shall have a suitable method for measurement of the beer, such as a meter or gauge glass. Tax determination shall consist of the measurement of the beer and the preparation of the brewer's record of tax determination, required by §25.292(a)(8). The taxes shall be determined prior to the time that the beer is dispensed into a container for consumption.
 - (2) If the brewer uses one or more tanks for tax determination, the following procedures shall apply:
 - (i) Each such tank shall be durably marked with the words "tax-determination tank";
 - (ii) The taxes shall be determined each time beer is added to a tax-determination tank; and
 - (iii) The brewer may never simultaneously pump into and out of a tax-determination tank.
 - (3) A brewer qualified under this section may store, on brewery premises, tax-determined beer which is intended for sale at a tavern operated on brewery premises, in accordance with this section. The prohibition of §25.24 shall not apply to such tax-determined beer.
 - (4) Beer consumed by employees and visitors in the brewery's tavern shall be beer on which the tax has been paid or determined.

[T.D. ATF–268, 53 FR 8628, Mar 16, 1988]

Subpart D Construction and Equipment

Construction

§ 25.31 Brewery buildings.

Brewery buildings shall be arranged and constructed to afford adequate protection to the revenue and to facilitate inspection by appropriate TTB officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

Equipment

§ 25.35 Tanks.

Each stationary tank, vat, cask or other container used, or intended for use, as a receptacle for wort, beer or concentrate produced from beer shall:

- (a) Be durably marked with a serial number and capacity; and
- (b) Be equipped with a suitable measuring device. The brewer may provide meters or other suitable portable devices for measuring contents of tanks or containers in lieu of providing each tank or container with a measuring device.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

§ 25.36 Empty container storage.

Empty barrels, kegs, bottles, other containers, or other supplies stored in the brewery will be segregated from filled containers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

Subpart F Miscellaneous Provisions

§ 25.51 Right of Entry and Examination.

An appropriate TTB officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate TTB officers may make inspections as the appropriate TTB officer deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an appropriate TTB officer acting under 26 U.S.C. 7606, or who refuses to permit an appropriate TTB officer to examine beer must, for each refusal, forfeit \$500.

[T.D. ATF–437, 66 FR 5478, Jan. 19, 2001]

§ 25.52 Variations from requirements.

(a) *Exceptions to construction, equipment and methods of operations*

- (1) **General.** The appropriate TTB officer may approve details of construction, equipment or methods of operations, in lieu of those specified in this part. The brewer shall show that it is impracticable to conform to the prescribed specification, and that the proposed variance:
 - (i) Will afford the protection to the revenue intended by the specifications in this part;
 - (ii) Will not hinder the effective administration of this part, and
 - (iii) Is not contrary to any provision of law.
- (2) **Application.** A brewer who proposes to employ methods of operations or construction or equipment other than as provided in this part shall submit an application to the appropriate TTB officer. The application will describe the proposed variation and state the need for it. The brewer shall submit drawings or photographs if necessary to describe the proposed variation.
- (3) **Approval by appropriate TTB officer.** The appropriate TTB officer may approve the use of an alternate method or procedure if:
 - (i) The brewer shows good cause for its use;
 - (ii) It is consistent with the purpose and effect of the procedure prescribed by this part and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(4) **Exceptions.** The appropriate TTB officer may not authorize an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(5) **Conditions of approval.** A brewer may not employ an alternate method or procedure until the appropriate TTB officer has approved its use. The brewer shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) **Emergency variations from requirements**

(1) **Application.** When an emergency exists, a brewer may apply to the appropriate TTB officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The brewer shall describe the proposed variation and set forth the reasons for using it.

(2) **Approval.** The appropriate TTB officer may approve an emergency variation from requirements if:

(i) An emergency exists;

(ii) The variation from the requirements is necessary;

(iii) It will afford the same security and protection to the revenue as intended by the specific regulations;

(iv) It will not hinder the effective administration of this part; and

(v) It is not contrary to law.

(3) **Conditions of approval.** A brewer may not employ an emergency variation from the requirements until the appropriate TTB officer has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(c) **Automatic termination of approval.** If the brewer fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the brewer is required to comply with prescribed requirements of regulations.

(d) **Withdrawal of approval.** The appropriate TTB officer may withdraw approval of an alternate method or procedure, approved under paragraph (a) or (b) of this section, if the appropriate TTB officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended, 1396, as amended (26 U.S.C. 5552, 5556))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

Formulas

§ 25.55 Formulas for fermented products.

(a) **For what fermented products must a formula be filed?** You must file a formula for approval by TTB if you intend to produce:

(1) Any fermented product that will be treated by any processing, filtration, or other method of manufacture that is not generally recognized as a traditional process in the production of a fermented beverage designated as “beer,” “ale,” “porter,” “stout,” “lager,” or “malt liquor.” For purposes of this paragraph:

(i) Removal of any volume of water from beer, filtration of beer to substantially change the color, flavor, or character, separation of beer into different components, reverse osmosis, concentration of beer, and ion exchange treatments are examples of non-traditional processes for which you must file a formula.

(ii) Pasteurization, filtration prior to bottling, filtration in lieu of pasteurization, centrifuging for clarity, lagging, carbonation, and blending are examples of traditional processes for which you do not need to file a formula.

(iii) If you have questions about whether or not use of a particular process not listed in this section requires the filing of a formula, you may request a determination from TTB in accordance with paragraph (f) of this section.

- (2) Any fermented product to which flavors or other nonbeverage ingredients (other than hop extract) containing alcohol will be added.
 - (3) Subject to paragraph (f) of this section, any fermented product to which coloring or natural or artificial flavors will be added.
 - (4) Subject to paragraph (f) of this section, any fermented product to which fruit, fruit juice, fruit concentrate, herbs, spices, honey, maple syrup, or other food materials will be added.
 - (5) Saké, including flavored saké and sparkling saké.
- (b) **Are separate formulas required for different products?**
- (1) You must file a separate formula for approval for each different fermented product for which a formula is required.
 - (2) You may file a formula for a beer base to be used in the production of one or more other fermented products. The beer base must conform to the standards set forth in §25.15.
- (c) **When must I file a formula?**
- (1) Except as provided in paragraph (c)(2) of this section, you may not produce a fermented product for which a formula is required until you have filed and received approval of a formula for that product.
 - (2) You may, for research and development purposes (including consumer taste testing), produce a fermented product without an approved formula, but you may not sell or market this product until you receive approval of the formula for it.
- (d) **How long is my formula approval valid?** Your formula approved under this section remains in effect until: you supersede it with a new formula; you voluntarily surrender the formula; TTB cancels or revokes the formula; or the formula is revoked by operation of law or regulation.
- (e) **Are my previously approved statements of process valid?** Your statements of process approved before January 3, 2006 are considered approved formulas under this section, provided that any finished product that could be made under the statement of process would be in compliance with the provisions of this part. You do not need to submit a formula for approval if a statement of process that remains valid covers the product.
- (f) **Determinations by TTB regarding specific processes and ingredients.**
- (1) The appropriate TTB officer may determine whether or not use of a process not listed in paragraph (a)(1) of this section requires you to file a formula for approval. The appropriate TTB officer may also exempt the use of a particular coloring, flavoring, or food material from the formula filing requirement of paragraph (a)(3) or paragraph (a)(4) of this section upon a finding that the coloring, flavoring, or food material in question is generally recognized as a traditional ingredient in the production of a fermented beverage designated as "beer," "ale," "porter," "stout," "lager," or "malt liquor."
 - (2) You may request a determination from TTB on whether or not the use of a process not listed in paragraph (a)(1) of this section will require the filing of a formula or whether the use of a particular coloring, flavoring or food material may be exempted from the formula filing requirement of paragraph (a)(3) or paragraph (a)(4) of this section. You should mail your request to the Assistant Chief, Advertising, Labeling and Formulation Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220.
 - (i) When requesting a determination as to whether a process is subject to the formula filing and approval requirement, the request must include:
 - (A) A detailed description of the proposed process;
 - (B) Evidence establishing that the proposed process is generally recognized as a traditional process in the production of a fermented beverage designated as "beer," "ale," "porter," "stout," "lager," or "malt liquor"; and
 - (C) An explanation of the effect of the proposed process on the production of a fermented product.
 - (ii) When requesting an exemption from the formula filing requirement in paragraph (a)(3) or paragraph (a)(4) of this section regarding coloring, flavoring, or food material ingredients, the request must include the following information:
 - (A) A description of the proposed ingredient;

- (B) Evidence establishing that the proposed ingredient is generally recognized as a traditional ingredient in the production of a fermented beverage designated as “beer,” “ale,” “porter,” “stout,” “lager,” or “malt liquor”; and
- (C) An explanation of the effect of the proposed ingredient in the production of a fermented product.

§ 25.56 Filing of formulas.

(a) **What are the general requirements for filing a formula?**

- (1) You must file your formula in writing. Your formula must identify each brewery where the formula applies by including each brewery name, address, and registry number.
- (2) You must serially number each formula, commencing with “1” and continuing in numerical sequence.
- (3) You must date and sign each formula.
- (4) You must file two copies of each formula with TTB.

(b) **Where do I file a formula?** File your formula with the Assistant Chief, Advertising, Labeling and Formulation Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220.

(26 U.S.C. 5401, 7805)

§ 25.57 Formula information.

(a) **Ingredient information.**

- (1) For each formula you must list each separate ingredient and the specific quantity used, or a range of quantities used. You may include optional ingredients in a formula if they do not impact the labeling or identity of the finished product.
- (2) For fermented products containing flavorings you must list for each formula: The name of the flavor; the product number or TTB drawback number and approval date of the flavor; the name and location (city and State) of the flavor manufacturer; the alcohol content of the flavor; and the point of production at which the flavor was added (that is, before, during, or after fermentation).
- (3) For formulas that include the use of flavors and other nonbeverage ingredients containing alcohol, you must explicitly indicate:
 - (i) The volume and alcohol content of the beer base;
 - (ii) The maximum volumes of the flavors and other nonbeverage ingredients containing alcohol to be used;
 - (iii) The alcoholic strength of the flavors and other nonbeverage ingredients containing alcohol;
 - (iv) The overall alcohol contribution to the finished product provided by the addition of any flavors or other nonbeverage ingredients containing alcohol. You are not required to list the alcohol contribution of individual flavors and other nonbeverage ingredients containing alcohol. You may state the total alcohol contribution from these ingredients to the finished product; and
 - (v) The final volume and alcohol content of the finished product.

(b) **Process information.** For each formula you must describe in detail each process used to produce a fermented beverage.

(c) **Alcohol content.** For each formula you must state the alcohol content of the fermented product after fermentation and the alcohol content of the finished product.

(d) **Beer base formulas.** You must refer in your formula to any approved formula number that covers the production of any beer base used in producing the formula product. If the beer base was produced by another brewery of the same ownership, you must also provide the name and address or name and registry number of that brewery.

(e) **Additional information.** The appropriate TTB officer may at any time require you to file additional information concerning a fermented product, ingredients, or processes, in order to determine whether a formula should be approved or disapproved or whether the approval of a formula should be continued.

(26 U.S.C. 5415, 5555, 7805(a))

§ 25.58 New and superseding formulas.

- (a) **New formulas.** Except as otherwise provided in paragraph (b) of this section, you must file a new formula (with a new formula number) for approval by TTB if you—
- (1) Create an entirely new fermented product that requires a formula;
 - (2) Add new ingredients to an existing formulation;
 - (3) Delete ingredients from an existing formulation;
 - (4) Change the quantity of an ingredient used from the quantity or range of usage in an approved formula;
 - (5) Change an approved processing, filtration, or other special method of manufacture that requires the filing of a formula; or
 - (6) Change the contribution of alcohol from flavors or ingredients that contain alcohol.
- (b) **Superseding formulas.** You may file a superseding formula, instead of a new formula, if you have made any change listed in paragraphs (a)(2) through (a)(6) of this section and that change is not of a type that would require a holder of a certificate of label approval to file a new application for label approval on TTB Form 5100.31.
- (1) A superseding formula replaces an existing formula, and you should file one only if you do not intend to use the existing formula any more. A superseding formula must be filed with TTB for approval. When TTB approves a superseding formula, TTB will cancel your previous formula.
 - (2) You may use the same formula number for a superseding formula that you used for the formula the superseding formula replaces, but you must annotate the formula number to indicate it is a superseding formula number. (For example, “Formula 2, superseding.”)
- (c) When you file a new or superseding formula with TTB, you must follow the procedures and other requirements of §§25.56 and 25.57.

Subpart G Qualification of a Brewery

Original Qualification

§ 25.61 General requirements for notice.

- (a) **Establishment.** Operations as a brewer may be conducted only by a person who has given notice as a brewer under this subpart. A person may not commence the business of a brewer until the appropriate TTB officer approves the brewery and the brewer's notice, including all documents made part of that notice.
- (b) **Brewer's Notice, Form 5130.10.** Each person must, before commencing business as a brewer, give notice on Form 5130.10. Each person continuing business as a brewer as provided in §25.71 must give notice on Form 5130.10. Each notice will be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the notice will be made part of the notice.
- (c) **Additional information.** The appropriate TTB officer may at any time require the brewer to furnish, as part of the notice, additional information which is necessary to protect and insure collection of the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

§ 25.62 Data for notice.

- (a) **Required information.** The brewer shall prepare the notice on Form 5130.10 and shall include the following information:
- (1) Serial number.
 - (2) Purpose for which filed.
 - (3) Name and principal business address of the brewer and the location of the brewery if different from the business address.
 - (4) Statement of the type of business organization and of the persons interested in the business, supported by the information listed in §25.66.
 - (5) Description of brewery, as specified in §25.68.

- (6) A list of trade names which the brewer intends to use in doing business or in packaging beer.
- (7) [Reserved]
- (8) The name and address of the owner of the land or buildings comprising the brewery, and of any mortgagee or other encumbrancer of the land or buildings comprising the brewery.
- (9) The 24-hour cycle of operations at the brewery which is to be the brewer's business day.
- (10) The process by which the brewer intends to render beer unfit for beverage use when beer is to be removed for use in manufacturing under §§25.191–25.192.
- (11) Statement showing ownership or controlling interests in other breweries which will establish eligibility for the transfer of beer without payment of tax between breweries of the same ownership, as authorized in §25.181.
- (12) The date of the notice and the name and signature of the brewer or person authorized to sign on behalf of the brewer.

(b) **Incorporation by reference.** If any of the information required by paragraph (a)(4) of this section is on file with an TTB office in connection with the qualification of any other premises operated by the brewer, that information, if accurate and complete, may be incorporated into the brewer's notice by reference.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by TTB T.D.–21, 70 FR 237, Jan. 3, 2005]

§ 25.63 Notice of registration.

The Brewer's Notice, Form 5130.10, when approved by the appropriate TTB officer, will constitute the notice of registration of the brewery. The appropriate TTB officer will not approve the notice until the notice and all incorporated documents are complete, accurate, and in compliance with the requirements of this part. A person may not operate a brewery until the notice required by this subpart has been approved by the appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.64 Maintenance of notice file.

The brewer shall maintain the approved Brewer's Notice, Form 5130.10, and all incorporated documents at the brewery premises, in complete and current condition, readily available for inspection by an appropriate TTB officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.65 Power of attorney.

The brewer shall execute and file a Form 1534 (5000.8) for each person authorized to sign or act on behalf of the brewer. The Form 1534 (5000.8) is not required for persons whose authority is furnished in the Brewer's Notice, Form 5130.10.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.66 Organizational documents.

The supporting information required by paragraph (a)(4) of §25.62 includes, as applicable, the following:

(a) **Corporate documents.**

- (1) Corporate charter or a certificate of corporate existence or incorporation;
- (2) List of directors and officers, showing their names and addresses;
- (3) Extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation; and
- (4) Statement showing the number of shares of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

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

(c) **Statement of interest.**

- (1) Names and addresses of all persons having 10 percent or more stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the

name of the interested party or in the name of another person. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the appropriate TTB officer; or

(2) In the case of an individual owner or partnership, the name and address of each person holding an interest in the brewery, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) **Availability of additional corporate documents.** The originals of documents required to be submitted under this section, and additional documents such as the articles of incorporation, bylaws, and State certificates authorizing the brewer to operate in the State where located (if other than the State in which the brewery is incorporated) shall be made available to any appropriate TTB officer upon request. In the case of multiplant brewers, these documents may be made available at the brewer's home brewery. Each brewer's notice filed by multiplant brewers will state the location where these corporate documents may be inspected.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.67 [Reserved]

§ 25.68 **Description of brewery.**

(a) The Brewer's Notice, Form 5130.10, will include a description of (1) each tract of land comprising the brewery, and (2) a listing of each brewery building by its designated letter or number, giving the approximate ground dimensions and the purpose for which ordinarily used.

(b) The description of the land will be in sufficient detail to enable appropriate TTB officers to determine the boundaries of the brewery.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

Alternation of Operations

§ 25.81 **Alternation of brewery and bonded or taxpaid wine premises.**

(a) **General.** A brewer operating a contiguous bonded winery or taxpaid wine bottling house may, as provided in this section, alternate the use of each premises by extension or curtailment.

(b) **Qualifying documents.** The brewer shall file and receive approval of the following qualifying documents:

(1) Form 5120.25 and Form 5130.10 to cover the curtailment and extension of the premises to be alternated.

(2) Special diagrams, in duplicate, delineating the brewery premises and the bonded or taxpaid wine premises as they will exist both during extension and curtailment. The diagrams will clearly depict all areas, buildings, floors, rooms, equipment and pipelines which are to be subject to alternation in their relative operating sequence.

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

(c) **Brewer's responsibility.** After approval of qualifying documents, the brewer may alternate the designated premises pursuant to a letterhead notice submitted to the appropriate TTB officer. The notice will contain the information required by paragraph (d) of this section. Prior to the effective date and hour of the alternation, the brewer shall

(1) Remove all beer on brewery premises to be alternated to bonded or taxpaid wine premises, or

(2) Remove all wine from bonded to taxpaid wine premises to be alternated to brewery premises.

(d) **Information for notice.** The notice required by paragraph (c) of this section will contain the following information:

(1) Plant name and address;

(2) Serial number;

(3) Effective date and hour of proposed change;

(4) Whether premises are to be curtailed or extended;

- (5) Purpose of curtailment or extension;
- (6) Identification of the special diagram depicting the premises as they exist when curtailed or extended; and
- (7) Date of execution and signature of brewer.

(e) **Separation of premises.** The appropriate TTB officer may require that the portion of brewery or bonded or taxpaid wine premises extended or curtailed under this section be separated, in a manner satisfactory to the appropriate TTB officer, from the remaining portion of the brewery or bonded or taxpaid premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended, 1389, as amended, 1390, as amended (26 U.S.C. 5401, 5411, 5415))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986; as amended by T.D. ATF–299, 55 FR 24989, June 19, 1990]

Subpart H Bonds and Consents of Surety

§ 25.91 Requirement for bond.

- (a) **General.** Every person intending to commence the business of a brewer shall file a bond, Form 5130.22, as prescribed in this subpart, covering operations at the brewery, at the time of filing the original Brewer's Notice, Form 5130.10. Every brewer intending to continue the business of a brewer shall, once every 4 years, or as provided in §25.95, execute and file a new bond, or continuation certificate as provided in §25.97.
- (b) **Conditions of the bond.** The Brewer's Bond, Form 5130.22, will be conditioned upon the brewer faithfully complying with all provisions of law and regulations relating to the activities covered by the bond, and upon paying all taxes imposed by 26 U.S.C. Chapter 51 and all interest and penalties incurred or fines imposed for violations of those provisions.
- (c) **Additional information.** The appropriate TTB officer shall require, in connection with any brewer's bond, a statement executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in §25.101(a)(1), or has been convicted of any offense set forth in §25.101(a)(2). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding the conviction or compromise.
- (d) **Bond required before beginning business.** A person may not begin business or continue business as a brewer until first receiving notice that the appropriate TTB officer has approved the bond, continuation certificate, or consent of surety, as required by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401); sec. 4(a), Pub. L. 91–673, 84 Stat. 2057 (26 U.S.C. 5417))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

§ 25.92 Consent of surety.

A brewer may change the terms of any bond filed under this part by filing a consent of surety. Consents of surety will be executed on Form 1533 (5000.18) by the brewer and the surety on the bond, with the same formality and proof of authorization as required for the execution of a bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.93 Penal sum of bond.

- (a)
 - (1) **Brewers filing semimonthly tax returns.** For brewers filing tax returns and remitting taxes semimonthly under §25.164(c)(2), the penal sum of the brewers bond must be equal to 10 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year during the period of the bond on beer:
 - (i) Removed for transfer to the brewery from other breweries owned by the same brewer;
 - (ii) Removed without payment of tax for export or for use as supplies on vessels and aircraft;
 - (iii) Removed without payment of tax for use in research, development, or testing; and

(iv) Removed for consumption or sale.

(2) **Brewers filing quarterly tax returns.** For brewers filing tax returns and remitting taxes quarterly under §25.164(c)(3), the penal sum of the brewers bond must be equal to 29 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year during the period of the bond on beer:

- (i) Removed for transfer to the brewery from other breweries owned by the same brewer;
- (ii) Removed without payment of tax for export or for use as supplies on vessels and aircraft;
- (iii) Removed without payment of tax for use in research, development, or testing; and
- (iv) Removed for consumption or sale.

(b) **Concentrate.** A brewer who concentrates beer under subpart R of this part shall calculate the penal sum of the bond by computing 10 percent of the amount of tax at the rates prescribed by law, on the maximum quantity of beer used in the production of concentrate during a calendar year. The brewer shall add this amount to the penal sum calculated under paragraph (a) of this section to determine the total penal sum of the brewer's bond.

(c) **Maximum and minimum penal sums.** The maximum penal sum of the bond (or total penal sum if original and strengthening bonds are filed) is not to exceed \$150,000 when the tax on beer is to be prepaid, or \$500,000 when the tax is to be deferred as provided in §25.164. The minimum penal sum of a bond is \$1,000.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB-41, 71 FR 5603, Feb. 2, 2006]

§ 25.94 Strengthening bonds.

(a) **Requirement.** When the penal sum of the brewer's bond (calculated as provided in §25.93) in effect is not sufficient, the principal may prepay the tax on beer as provided in subpart K of this part, or give a strengthening bond in sufficient penal sum if the surety is the same as on the bond in effect. If the surety is not the same, a new bond covering the entire liability is required.

(b) **Restrictions.** A strengthening bond may not in any way release a former bond or limit a bond to less than the full penal sum.

(c) **Date of execution.** Strengthening bonds will show the current date of execution and their effective date.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.95 New bond.

The appropriate TTB officer may at any time, at his or her discretion, require a new bond. A new bond is required immediately in the case of insolvency of a surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity shall execute a new bond or obtain a consent of surety on all bonds in effect. When the interests of the Government so demand, or in any case when the security of the bond becomes impaired for any reason, the principal will be required to give a new bond. When a bond is found to be not acceptable by the appropriate TTB officer, the principal will be required immediately to obtain a new and satisfactory bond or discontinue business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.96 Superseding bond.

When the principal submits a new bond to supersede a bond or bonds in effect, the appropriate TTB officer, after approving the superseding bond, will issue a notice of termination for the superseded bond under the provisions of this subpart. Superseding bonds will show the current date of execution and their effective date.

§ 25.97 Continuation certificate.

If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force for a succeeding period of not less than 4 years from the expiration date of the bond or continuation certificate, the brewer may submit, in lieu of a new bond, a Brewer's Bond Continuation Certificate on Form 5130.23, executed under the penalties of perjury, by the brewer and the surety attesting to continuation of the bond. Each continuation certificate will constitute a bond and all provisions of law and regulations applicable to bonds on Form 5130.22 given under this part, including the disapproval of bonds, are applicable to continuation certificates.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.98 Surety or security.

- (a) **Bond coverage.** Bonds required by this part will be given with corporate surety or collateral security.
- (b) **Corporate surety.** Surety bonds may be given only with surety companies holding certificates of authority from the Secretary as acceptable sureties on Federal bonds, subject to the limitations set forth in the current revision of Treasury Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Reinsuring Companies.
- (c) **Revisions of Circular No. 570.** Treasury Department Circular No. 570 is published in the Federal Register annually as of the first workday in July. As they occur, interim revisions of the circular are published in the Federal Register. Copies may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226.
- (d) **More than one corporate surety.** A bond may be executed by two or more corporate sureties. Each corporate surety may limit its liability in terms on the face of the bond in a specified amount. This amount may not exceed the limitations set forth for corporate security by the Secretary which are set forth in the current revision of Treasury Department Circular No. 570. The sum of the liabilities for the sureties will equal the required penal sum of the bond.
- (e) **Deposit of collateral securities in lieu of corporate surety.** Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of corporate surety in accordance with [31 CFR Part 225](#).

(96 Stat. 1068, 1085 ([31 U.S.C. 9304–9308](#)); sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended ([26 U.S.C. 5401](#)))

§ 25.99 Filing powers of attorney.

Each bond, continuation certificate, and each consent of surety will be accompanied by a power of attorney authorizing the agent or officer to execute the document. The power of attorney will be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it will be accompanied by a certificate of its validity.

(96 Stat. 1068, 1085 ([31 U.S.C. 9304–9308](#)))

Disapproval or Termination of Bonds or Consents of Surety

§ 25.101 Disapproval of bonds or consents of surety.

- (a) **Reasons for disapproval.** The appropriate TTB officer may disapprove a bond or consent of surety if the individual, firm, partnership, corporation, or association giving the bond or consent of surety, or if any of the above entities owning, controlling or actively participating in the management of a business giving a bond as a brewer, has been previously convicted in a court of competent jurisdiction of:
 - (1) Any fraudulent noncompliance with any provision of law of the United States if it related to internal revenue or customs taxation of distilled spirits, wines or beer, or if the offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise; or
 - (2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wines, beer, or other intoxicating liquor.
- (b) **Appeal of disapproval.** If the bond or consent of surety is disapproved, the person giving the bond or consent of surety may appeal the disapproval to the appropriate TTB officer, who will grant a hearing in the matter if requested by the applicant or brewer, and whose decision will be final.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended ([26 U.S.C. 5551](#)))

[T.D. ATF–224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF–437, 66 FR 5479, Jan. 19, 2001]

§ 25.102 Termination of surety's liability.

The liability of a surety on a bond required by this part will be terminated only as to liability arising on or after: (a) the effective date of a superseding bond; (b) the date of approval of the discontinuance of business of the brewer; or (c) following the giving of notice by the surety as provided in [§25.103](#).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended ([26 U.S.C. 5401](#)))

§ 25.103 Notice by surety for relief from liability under bond.

A surety may, at any time, in writing, notify the principal and the appropriate TTB officer that the surety desires after a specified date (not less than 60 days after the date of service on the principal) to be relieved of any liability under the bond which is incurred by the principal after the date named in the notice. The surety shall include proof of service of the notice on the principal with the notice filed with the appropriate TTB officer. The notice will become effective on the date named, unless the surety withdraws the notice, in writing. The surety on the bond remains liable under the bond with respect to any liability incurred by the principal while the bond is in effect.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.104 Termination of bonds.

Brewer's bonds may be terminated as to liability for future removals or receipts (a) pursuant to application of the surety as provided in §25.103, (b) on approval of a superseding bond, or (c) on notification by the principal that the business has been discontinued. On termination of the surety's liability under a bond, the appropriate TTB officer will notify the principal and sureties.

(31 U.S.C. 9301, 9303)

§ 25.105 Release of collateral security.

Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part will be released in accordance with 31 CFR Part 225. When the appropriate TTB officer determines there is no outstanding liability against the bond and that it is no longer necessary to hold the security, he or she shall fix the date or dates on which a part or all of the security will be released. At any time prior to the release of the security, the appropriate TTB officer may, for proper cause, extend the date of release of the security for an additional length of time as may be appropriate.

(31 U.S.C. 9301, 9303)