

Before I Brew, What Must I Do? The Painless Way to File for TTB Approval as a Brewery or Brewpub

Presented by
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Overview

- Original Qualification
- Changes of Control/Proprietorship
- Alternating Proprietorships
- Screening and Investigative Process
- Presentation Referrals

Original Qualification

Original Qualification

- See Exhibit 1: Most Common Errors – Brewery Applications
- Avoiding errors in completing the forms and ensuring that all required paperwork is filed will expedite the screening of your application
- You must receive approval from TTB before brewing or commencing operations

Required Documents

- The following forms must be submitted to TTB:
 - TTB Form 5130.10, Brewer's Notice
 - TTB Form 5130.22, Brewer's Bond **OR**
TTB Form 5130.25, Brewer's Collateral Bond
- Refer to Exhibit 2: Original Brewery Checklist

Required Documents (Continued)

- TTB F 5000.9, Personnel Questionnaire, for each officer, director, member, partner, and each stockholder of 10 percent or more and all LLC members/interest holders
- TTB F 5000.29, Environmental Information
- TTB F 5000.30, Supplemental Information on Water Quality Considerations

Signature Authorization

- If someone will be signing the application and/or supporting documents or will act on your behalf, you must submit one of the following :
 - Completed Item 15 of the Brewer's Notice
 - TTB F 5000.8, Power of Attorney
 - TTB F 5100.1, Signing Authority for Corporate or LLC Officials
 - Corporate resolution or specific notification in organizational documents granting this authority

Corporations

- To qualify as a brewer, corporations must submit:
 - Copy of Articles of Incorporation
 - Copy of Bylaws
 - Copy of certificate of incorporation executed by an officer of the State in which incorporated
 - List of officers, directors, and anyone holding 10 percent or more of stock, including addresses, and showing the number of shares held

Limited Liability Company

- To qualify, LLCs must submit to TTB:
 - Copy of Articles of Organization
 - Copy of Operating Agreement
 - Copy of certificate of organization executed by an officer of the State in which organized
 - List of members/managers, including addresses, and their percentage of interest

Partnerships

- Partnerships must submit to TTB:
 - List of the partners, including addresses, and their percentage of ownership
 - If there is a verbal agreement rather than written partnership agreement, please provide a written statement to that effect signed by all partners. If no single partner has signing authority on behalf of the partnership, all partners must sign each form sent to TTB

Required Documents (Continued)

- Source of Funds Documentation
(See Exhibit 3)
- Lease Agreement (if applicable)
(See Exhibit 3)
- A legible photocopy of the Driver's License or official State ID card of the primary contact person who TTB will interview by phone regarding the application

Required Documents (Continued)

- Diagram of the brewery premises
- Legal description of the brewery premises
- Statement describing the security at the brewery

Changes of Control and/or Proprietorship

Change of Control

- When a change of stock distribution or LLC membership ownership occurs producing a new person or company owning more than 50 percent of the outstanding stock or ownership interest
- Brewer's Notice (TTB F 5130.10) must be submitted within 30 days of the change; in these cases, the organizational structure of the entity has not changed
- If a new stockholder holds more than 10 percent stock or interest, and is not already on record, the Personnel Questionnaire (TTB F 5000.9) must be filed

Change of Proprietorship

- When an existing proprietor has new ownership (as a company)
- Usually, a different company or person is now operating the business
- The new owner must qualify as a brewery before beginning operations; it is important that all the forms are filed well in advance of the proposed effective date of the change
- The predecessor must submit documents as required for discontinuance

Alternating Proprietorships

Alternating Proprietorships

- An “alternating proprietorship” is a term used to describe an arrangement in which two or more people take turns using the premises of a brewery
- Generally, the proprietor of an existing brewery, the “host brewer,” agrees to rent space and equipment to a new “tenant brewer”

Alternating Proprietorships (Continued)

- The tenant brewer:
 - Qualifies as a brewer with TTB
 - Produces beer, keeps appropriate brewery records, labels the beer with its own name/address, obtains the necessary Certificates of Label Approval, and pays tax at the appropriate rate
 - Has title to the brewing ingredients and the beer at all stages of the brewing process

Alternating Proprietorships (Continued)

- See Exhibit 4: Industry Circular 2005-2 and Exhibit 5: Helpful Hints for Brewery Alternating Proprietorships
- In addition to qualifying as a new brewery, certain additional documents are required:
 - A Consent of Surety (Change in Bond), TTB F 5000.18, for consent to periodic alternation of premises with host brewer

Alternating Proprietorships (Continued)

- A request for an alternate method of operation if alternating brewer plans to prepare or store records on premises of the host brewery
- Power of Attorney (TTB F 5000.8) for any host brewery employees that plan to prepare records or reports for the tenant brewer
- A request for an alternate method of operation to allow use of the brewery records as the record of extension and curtailment of brewery premises

Alternating Proprietorships (Continued)

- A request for an alternate method of operation to allow the establishment of an alternating proprietorship with the host brewer
- A business plan showing development plans for brewing business
- A copy of the entire agreement between the host and tenant brewer

Screening and Investigative Process

Screening and Investigative Process

- An application is submitted to the National Revenue Center (NRC) in Cincinnati, OH and entered into NRC databases
- A specialist will review the application and attachments plus background check results
- The specialist will contact you to correct any errors and obtain any missing information

Screening and Investigative Process

(Continued)

- A specialist will conduct an in-depth phone interview
- An application may be referred to the Trade Investigations Division for onsite inspection
- Recommendation and decision on final action (approval, denial, abandonment) will be made and taken by the NRC

Presentation Referrals

- We recommend that you also attempt to attend some of the other presentations provided that relate to this industry:
 - Brewery Records, Reports, and Taxes Made Understandable
 - Label Perfection!
 - What to Expect During a TTB Audit or Investigation
 - I Have To Stop Brewing and Tell TTB What?
 - Others (FDA, Exportation, State Reps)

Summary

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Contact Us

National Revenue Center:

1-877-882-3277

Brewery & Wholesaler/Importer
Applications Section:

(513) 684-3337

www.ttb.gov