

2009 TTB Expo Presentation

# Changes after Qualification – Breweries

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# Overview

- Types of Changes to Report to TTB
- Required Documentation and Timing for Reporting Changes
- Bond Renewals
- Maintaining Sufficient Bond Coverage
- Discontinuance of Business

# Types of Changes to Report to TTB

# Types of Changes to Report

- Changes to your company, personnel, physical brewery premises, and operations
- Some changes must be approved prior to implementation, while others can be reported after the change

**Refer to Handout 1: Changes After  
Original Qualification – Brewery**

# **Types of Changes to Report (Continued)**

- Change in Proprietorship
- Change in Control
- Change in Entity Name
- Change of Officers/Directors/Stockholders
- Change of Signing Authority
- Addition/Deletion of Trade Names
- Change of Location

## **Types of Changes to Report (Continued)**

- Change of Address
- Change of Premises
- Addition/Deletion of Equipment
- Alternation of Premises
- Extension or Curtailment of Premises
- Contract Brewing
- Other Changes

# Required Documentation and Timing for Reporting Changes

# Change of Proprietorship

- When an existing proprietor has new ownership (usually a different company or person).
- The new owner must qualify as a brewery before beginning operations; so it is important to file all forms well in advance of the proposed effective date of the change.
- The predecessor must submit documents as required for discontinuance.

**Refer to Handout 2: TTB Webpage – Changes after Original Qualification – Brewery**



# Change of Control

- A new person or company owns more than 50% of the outstanding stock or ownership interest.
- Brewer's Notice, TTB F 5130.10, must be submitted within 30 days of the change.
- If a new stockholder holds more than 10% stock or interest, and is not already on record, TTB F 5000.9, Personnel Questionnaire, must be filed.

# Change of Entity Name

- When a company amends its legal name (not a change of ownership or business entity type).
- Brewer's Notice, TTB F 5130.10, must be filed within 30 days of the change.
- The Amended Articles of Incorporation or Articles of Organization must be filed showing the change.

# Change of Officers/ Directors/Stockholders

- When there is a change in the officers, directors, or stockholders of 10% or more.
- Submit an amended Brewer's Notice, TTB F 5130.10, in duplicate within 30 days of the change.
- If new personnel are being added, TTB F 5000.9, Personnel Questionnaire, must be submitted for each person.

# Adding or Removing Signing Authority

- TTB F 5100.1, Signing Authority for Corporate and LLC Officials.
- Breweries also have the option of adding such signing authority on the back of the Brewer's Notice, TTB F 5130.10, in lieu of filing TTB F 5100.1
- To remove someone with signing authority granted by either of these forms, file an amended Brewer's Notice showing the new signing authority designations and detailing the removal of previously authorized officials.

# Adding or Removing Signing Authority (Continued)

- TTB F 5000.8, Power of Attorney — This is used when granting authority to individuals such as consultants, attorneys, bookkeepers, and other persons who are not officers, directors, or members.
- To remove someone with signing authority granted by a Power of Attorney form, file a letterhead notice detailing the revocation of the specific individual, signed by a person with authority.

# Addition of Trade Names

- TTB F 5130.10, Brewer's Notice, and proof of trade name registration.
- If the State or county does not require trade name registration, a signed and dated statement of this fact must be submitted with the Brewer's Notice.
- The notice must be approved prior to use of the trade name.

# Deletion of Trade Names

- TTB F 5130.10, Brewer's Notice showing the trade name to be deleted.
- The notice should be filed within 30 days of the termination of use of the trade name.

# Change of Location

- A Brewery may not begin operations at a new location until Brewer's Notice, TTB F 5130.10 is approved.
- You must attach to the notice a new diagram, security statement, and written description.
- A Superseding Bond must be submitted showing the new address.
- Environmental Information and Water Quality Considerations forms must be submitted.



# Change of Address

- If there is a change in the premises address (usually a change made by the U.S. Postal Service) or to the business/mailing address of the brewery file Brewer's Notice, TTB F 5130.10 within 30 days of the change.
- There is no change of location of the brewery plant in these instances.

# Changes to Premises or Equipment

- If changes are made to the brewery or equipment that alters the information on file regarding the layout, diagram, or boundaries of the plant file Brewer's Notice, TTB F 5130.10.
- All necessary attachments (plats, diagrams, descriptions) showing the alterations must also be filed.
- The notice must be approved prior to use of the altered area or equipment.

# Alternation of Premises

- A brewer operating a contiguous bonded winery, or taxpaid wine bottling house, may alternate the use of each premises by extension or curtailment.
- An amended Brewer's Notice, TTB F 5130.10, must be filed to cover the curtailment and extension of premises to be alternated, along with a special diagram, and a Change of Bond Form (Consent of Surety).

# Alternation of Premises (Continued)

- A letterhead notice requesting a variance from the requirement to submit notification of each alternation may be filed.
- The brewer must also file an Amended Application to Establish and Operate Wine Premises, TTB F 5120.25, to cover the curtailment and extension of premises to be alternated, special diagram, and a Change in Bond Form (Consent of Surety).

# Extension or Curtailment of Premises

- If a brewery will be increasing or decreasing the size of their brewery premise, they must submit, in duplicate, an Amended Brewer's Notice, TTB F 5130.10.
- In some cases, Environmental Information, TTB F 5000.29, and Water Quality Considerations, TTB F 5000.30 will also be required.
- The notice must be approved prior to use of the altered area or equipment.

# Contract Brewing

- An amended Brewer's Notice, TTB F 5130.10, must be filed to add a trade name used by another brewery or wholesaler.
- The trade name must be registered with the State or county, if either requires registration, and a copy submitted to TTB.
- A letterhead notice from the customer/ wholesaler giving authorization to brew their product and use their trade name must be filed.
- The notice must be approved prior to use of the trade name for contract brewing purposes.

# Other Changes

- Change of Controlled Group Status
- Change of Controlled Group Reduced Rate Barrel Allocation
- Change of Brewpub/Brewery Designation
- Discontinuance
- New Bond

# Bond Renewals



# Bond Renewals

- A Brewer's Bond expires 4 years from the effective date of the bond.
- Each brewery must renew their Brewer's Bond with TTB prior to the expiration date in order to continue operations uninterrupted.
- Note: Timely renewal of bonds is one of the largest Federal compliance issues facing breweries.

**Refer to Handout 3: Helpful Hints on  
Renewing Brewery Bonds**

# Possible Consequences of Not Renewing Timely

- TTB will assess all beer produced after expiration date of bond at the full \$18.00 tax rate.
- TTB will place the brewery on Cease and Desist (C & D) Status, which means that you will no longer be allowed to conduct brewery operations, including production and removal of beer, until a new Brewer's Bond is approved.
- TTB may contact your State licensing agency to report non-compliance with Federal requirements.

# Options for Renewing Your Bond

- Superseding Bond – Terminates all bonds currently on file for the brewery.
- Types of Superseding Bonds are:
  - Brewer's Bond (TTB F 5130.22)
  - Brewer's Collateral Bond (TTB F 5130.25)

# Options for Renewing Your Bond (Continued)

- Continuation Certificate – A continuation of the old bond, which is submitted in lieu of a new bond.
- Two types of Continuation Certificates:
  - Brewer’s Bond Continuation Certificate (TTB F 5130.23)
  - Brewer’s Collateral Bond Continuation Certificate (TTB F 5130.27)

# Common Errors on Bond Renewals

- **Incorrect Brewery Name** – Your legal brewery name should appear exactly as it is shown on your organizational documents.
- **Wrong Effective Date of Bond** – The effective date must be on or before the date the previous bond expires.
- **Insufficient Amount of Bond** – The amount of the bond must be sufficient to cover proposed operations.

# Common Errors on Bond Renewals (Continued)

- **Missing County** – The “County” must be included with both addresses.
- **Missing Witness Signatures or Seal** – If the brewery has a corporate or LLC seal, it must be placed on the bond. If no seal exists, the signatures of two witnesses must be shown.
- **Missing State of Incorporation/Organization** – The State where the brewery was incorporated or organized must be included.

# Maintaining Sufficient Bond Coverage

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- A brewery must maintain sufficient bond coverage, which is based on a percentage of the maximum amount of tax the brewer will become liable to pay during a calendar year during the period of the bond.



# Semi-Monthly Taxpayers

- For brewers who pay their taxes on a **semi-monthly basis** (mandated for taxpayers whose tax payments exceed \$50,000 in a calendar year), the penal sum of their brewer's bond must be equal to **10%** of their potential liability.

# Quarterly Tax Payers

- For brewers who pay their taxes on a **quarterly basis** (those taxpayers who reasonably expect to be liable for not more than \$50,000 in a calendar year), the penal sum of their brewer's bond must be equal to **29%** of their potential liability.

# Calculating the Bond Penal Sum

- Quarterly Filers – 29 percent, Semi-Monthly Filers – 10 percent, on beer:
  - Received in the brewery from breweries of the same ownership.
  - Removed without payment of tax for export or for use as supplies on vessels and aircraft.
  - Removed without payment of tax for use in research, development, or testing.
  - Removed for consumption or sale.
  - Used in the production of concentrate during a calendar year.

**Refer to Handout 4**

# Discontinuance of Business

# Discontinuance of Business

- When a brewery goes out-of-business or is sold to another brewery, they must file discontinuance paperwork immediately.

**Refer to Handout 5: Helpful Hints  
for Brewery Discontinuance**

# Required Documents

- A Brewer's Notice, TTB F 5130.10, signed by an authorized individual, should show Discontinuance of Business as the reason filed, along with the date of discontinuance.
- A final TTB F 5130.9, Brewery Report of Operations, or TTB 5130.26, Brewpub Report of Operations, showing all beer on hand as paid or transferred to new owner before termination, marked "**FINAL REPORT**," and having 0.0 "on hand" at the end-of-period.

## Required Documents (Continued)

- A final TTB F 5000.24, Excise Tax Return, covering the last period of liability marked “**FINAL RETURN.**” The period should cover up to the last day of business as a brewery (including all removals).

# Summary

- Types of Changes to be Reported
- Required Documentation and Timing for Reporting Changes
- Bond Renewals
- Maintaining Sufficient Bond Coverage
- Discontinuance of Business



# Contact Information

National Revenue Center:

1-877-882-3277

Brewery & Wholesaler/Importer  
Applications Section:

(513) 684-3337

[www.ttb.gov](http://www.ttb.gov)