



# TTB Boot Camp Webinar Series for Brewers

---

BREWER'S NOTICES



# TTB Disclaimer

This information is being presented to help the public to understand and comply with the laws and regulations that the Alcohol and Tobacco Tax and Trade Bureau (TTB) administers.

It is not intended to establish any new, or change any existing, definitions, interpretations, standards, or procedures regarding those laws and regulations.

In addition, this presentation may be made obsolete by changes in laws and regulations.

Please consult the applicable laws and regulations for the most current requirements.

Sample documents (such as records, returns, and labels) are for illustrative purposes only and contain fictitious data.



# Agenda

In this session we will cover these topics:

- Overview of TTB Brewer's Notices
- Amendments
- Alternations
- Contract brewing



# Brewer's Notices

- Operations as a brewer may be conducted only by a person who has given notice as a brewer
- A person may not commence the business of a brewer until TTB approves the brewery and the brewer's notice, including all documents made part of that notice
- [TTB Form 5130.10](#)



# What to Gather Before You Apply

- Organizational documents establishing your business entity
- Lease agreement or proof of ownership
- Signing authority authorization:
  - Signing Authority, TTB Form 5100.1
    - If persons with signing authority are not identified in the organizational documents
  - Power of Attorney (POA), TTB Form 5000.8
- Diagram of the brewery
- More information at: [TTBGov - Brewery Brewpub](#)



# Brewer's Notices: Required Information\*

- Name and principal business address
- Statement of the type of business organization
- Description of brewery, as specified in [§ 25.68](#)
- A list of trade names
- The 24-hour cycle of operations at the brewery
- 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](#)
- A statement of whether the brewer is required to furnish a bond under [§ 25.91](#)

\*See 27 CFR 25.62 – 25.68 for complete list




# Register for an Account in Permits Online

Home    My Submissions    Resume Draft    Help

User Name or E-mail:     Password:     [Log in »](#)

Remember me on this computer    [I've forgotten my password](#)    [New Users: Register for an Account](#)



<https://www.ttbonline.gov/permitsonline/Default.aspx>



# Business Entity and Commodity Operations

- Your information in Permits Online is organized in two different kinds of records
  - The **entity record** equates to a single company or business entity, represented by a unique Employer Identification Number (EIN)
  - A **commodity operations record** is created for each TTB-regulated operation or permit, registration, or notice the entity is approved for
- A typical entity record will have at least one, but may have multiple commodity operations records associated with it





# Business Entity and Commodity Operations





# Business Entity and Commodity Operations





# Business Entity and Commodity Operations

- When applying to start a new TTB-regulated business, you'll complete **both a new entity application and a new commodity operations application** for each permit, registration, or notice you need
- If you need to file an amendment related to the business entity, you will file one application including the changes associated with each TTB permit, registration, or notice held by that company



# Changes to Your Entity that You Must Report to TTB

- Changes in:
  - the legal business name
  - controlling ownership
  - any partner or general partner
  - any stockholder or members holding ownership of 10 percent or more
  - corporate officer, directors, or any titled positions
- Adding, revoking, or changing:
  - signing authority
  - power of attorney
- Termination of all TTB-regulated operations under your EIN (going completely out of business)

27 CFR 25.71-25.75 & 25.85



# Change in Proprietorship

- Involves changes in the entity that owns and operates the brewery. Could include ownership change or a change of entity type (e.g., change from sole proprietor to LLC or from a partnership to a corporation). In either event, the entity that owned the business no longer operates or owns the operations at that location.



# Change in Control

- Involves changes in stock ownership, LLC membership ownership, and certain changes to the entity's officers or directors
- Requires an amended Brewer's Notice, [TTB F 5130.10](#), within 30 days of the change
- May also require a Personnel Questionnaire, [TTB F 5000.9](#), must be filed
- See 27 CFR 25.71 – 25.75



# Changes to Your Commodity Operations That You Must Report

- Change in:
  - premises location
  - bond
  - construction or use of building
  - operations
  - DBA/Operating name
  - mailing address
- Adding or removing:
  - trade names
  - noncontiguous premises
  - alternation of premises
  - alternation of proprietor
  - variance or alternate method
- Termination of operations at one location, but keeping other operations/locations under the same EIN open

# Alternations and Contract Brewing







# Alternation of Premises

**The premises is used by the same owner/same EIN to conduct another TTB-regulated business, such as a winery or distilled spirits plant**

- If you are an already established brewery and wish to add a winery or distilled spirits plant, you must submit:
  - A new application for the commodity operation(s) that you are adding
  - Updated diagram showing which areas will be alternating
  - Variance request to use brewery for another purpose
  - Variance request from the requirement to notify TTB of each alternation
  - Change in Bond (Consent of Surety), TTB Form 5000.18, if applicable

27 CFR 25.52, 25.78 & 25.81



# Alternation of Proprietorship

**Two or more proprietors with different EINs are operating at the same premises and sharing space and/or equipment.**

Generally, the proprietor of an existing brewery, the host brewer, agrees to rent space and equipment to a new tenant brewer.

Alternating brewery proprietorships allow existing breweries to use excess capacity and give new entrants to the beer business an opportunity to begin on a small scale, without investing in premises and equipment.



# Alternation of Proprietorship (Cont.)

- Both host brewer and tenant brewer are required to submit applications and supporting documents to TTB prior to alternation. Examples of submissions required by host and/or tenant include (not a complete list\*):
  - Brewer's Notice (or amended Brewer's Notice)
  - Description of the portion of the brewery premises and equipment to be periodically alternated and the tenant brewers with whom it will alternate
  - Requests for alternate methods of operation
  - Copy of the agreement between host and tenant brewer
  - Business plan showing development plans for brewing business

\*See Industry Circular 2005-2 for complete list



# Contract Brewing

- A **business relationship in which one person**, such as a wholesale or retail dealer or a brewer, **pays a brewing company, the “contract brewer,” to produce beer for them**
- TTB considers contract brewing arrangements to be ordinary commercial arrangements



# Contract Brewing (Cont.)

- Contract brewer retains title to the beer at least until the beer is taxpaid or removed from the brewery
- Contract brewer is entirely responsible for producing the beer, keeping appropriate brewery records, labeling the beer with its name and address, obtaining necessary certificates of label approval (COLAs), and paying tax at the appropriate rate upon removal of the beer from the brewery



# Alternating Proprietorship vs. Contract Brewing: Qualification/Permit

- **Contract brewing:** Only the contract brewer must qualify as a brewer under part 25
  - The person on whose behalf the beer is brewed may be a wholesaler, retailer, another brewer, or other private party
- **Alternating proprietorship:** Both host and tenant brewer act as brewers and each must be qualified under part 25
  - The tenant brewer does not need to be qualified as a wholesaler, since the beer that the tenant produces is considered his or her own production and is not sold to the tenant by the host brewer



# Alternating Proprietorship vs. Contract Brewing: Records and Reports

- **Contract brewing:** Contract brewer is responsible for keeping records of beer production and removal and for providing operational reports to TTB
  - The beer purchaser has no responsibility for records or reports under part 25, although that person may be required to maintain records as a retail or wholesale dealer in beer under 27 CFR part 31
- **Alternating proprietorship:** Host and tenant brewer must keep separate records of their respective beer production and removals and each must provide operational reports to TTB



# Alternating Proprietorship vs. Contract Brewing: Taxpayment

- **Contract brewing:** Contract brewer is responsible for paying tax at the appropriate rate of tax on beer removed from the brewery
  - The person for whom the beer is produced has no responsibility to pay tax on the beer but may compensate the contract brewer for tax or any other expenses pursuant to the contract arrangement
- **Alternating proprietorship:** Host and tenant brewer individually pay tax, at the rate of tax applicable to each, upon removal of their own beer from the brewery





# Going Out of Business

- If you are discontinuing all brewery operations:
  - File a termination of operations amendment to the Brewer's Notice
  - File a final Operational Report showing all beer on hand as taxpaid or transferred to new owner before termination
    - Mark it "FINAL REPORT" and have 0.0 "on hand" end-of-period
  - File final Excise Tax Return
    - Mark it "FINAL RETURN"
    - The period should cover up to the last day of business as a brewery and should include all removals

27 CFR 25.85 and 25.164



# TTB Beer Resources

## Beer Resources

### Apply for a Permit: Qualifying with TTB

<https://www.ttb.gov/business-tools/qualify-with-ttb>

### Permits Online Customer Page

<https://www.ttb.gov/ponl/customer-support>

### Permits Online Tutorial

<https://www.ttb.gov/ponl/ponl-launch>

### State Alcohol Beverage Authorities

<https://www.ttb.gov/wine/alcohol-beverage-control-boards>

### Beer FAQs

<https://www.ttb.gov/beer/beer-faqs>

### Maintaining Compliance in a TTB-Regulated Industry

<https://www.ttb.gov/business-central/industry-members-responsibilities>

### Overview of the Application Process

<https://www.ttb.gov/ponl-help/permits-online-overview-of-the-application-process>

### Beer Laws, Regulations, and Public Guidance

<https://www.ttb.gov/beer/laws-regulations-and-public-guidance>



# Contact Us

## Questions?

**Contact the National Revenue Center at:**

- Toll-Free: 877-882-3277 / 877-TTB-FAQS
- Use our [National Revenue Center Contact Form](#)

**Representatives are Available:**

8 a.m. to 4:30 p.m. ET Monday - Friday (except on federal holidays)

Please take a few minutes to provide feedback on this session:

<https://www.ttb.gov/survey>

