



I Have To Stop Brewing and Tell TTB What? Changes To Report To TTB About Your Brewery Operations

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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
- Host for Alternating Proprietorships
- Discontinuance of Business

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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 Exhibit 1: Changes After Original Qualification - Brewery

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Types of Changes To Report (Cont'd)

- 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

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Types of Changes To Report (Cont'd)

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

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REQUIRED DOCUMENTATION AND TIMING FOR REPORTING CHANGES



Change of Proprietorship

- When an existing proprietor has new ownership (as a company)
- The new owner must qualify as a brewery before beginning operations
- The predecessor must submit documents as required for discontinuance

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Change of Control

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

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Change of Entity Name

- When a company amends their legal name (not a change of ownership or business entity type)
- Brewer's Notice, TTB Form 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

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Change of Officers/ Directors/Stockholders

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

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Adding or Removing Signing Authority

- TTB Form 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 Form 5130.10, in lieu of filing TTB Form 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

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Adding or Removing Signing Authority (Cont'd)

- TTB Form 5000.8, Power of Attorney - This form 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

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Addition of Trade Names

- TTB Form 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

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Deletion of Trade Names

- TTB Form 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

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Change of Location

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

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Change of Premises Address or Business/Mailing 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 Form 5130.10 within 30 days of the change
- There is no change of location of the brewery plant in these instances

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Change of Premises/Addition or Deletion of 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 Form 5130.10
- All necessary attachments (plans, diagrams, descriptions) showing the alterations must also be filed
- The notice must be approved prior to use of the altered area or equipment

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Alternation of Premises

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

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Alternation of Premises (Cont'd)

- A letterhead notice requesting a variance from the requirement to submit notification of each alternation should be filed, along with a variance request to allow the brewery premises to be used for other purposes
- The brewery must also file an original qualification as a bonded winery, taxpaid wine bottling house, or distilled spirits plant

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Extension or Curtailment of Premises

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

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Contract Brewing

- An amended Brewer's Notice, TTB Form 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
- 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

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Other Changes

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

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BOND RENEWALS



Bond Renewals

- A Brewer's Bond expires four years from the effective date of the bond
- Each brewery must renew their Federal Brewer's Bond with TTB prior to the expiration date in order to continue operations uninterrupted
- **Timely renewal of bonds is one of the largest Federal compliance issues facing breweries**
- Refer to Exhibit 2: Helpful Hints on Renewing Brewery Bonds

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Possible Consequences of Not Renewing Timely

- TTB will assess all beer produced after expiration date 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

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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 Form 5130.22)
 - Brewer's Collateral Bond (TTB Form 5130.25)

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Options for Renewing Your Bond (Cont'd)

- Continuation Certificate - A continuation of the old bond, and submitted in lieu of a new bond.
- The two types of Continuation Certificates are:
 - Brewer's Bond Continuation Certificate (TTB Form 5130.23)
 - Brewer's Collateral Bond Continuation Certificate (TTB Form 5130.27)

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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

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Common Errors on Bond Renewals (Cont'd)

- **Missing County** – 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.

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MAINTAINING SUFFICIENT BOND COVERAGE



Maintaining Sufficient Bond Coverage

- 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

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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 percent** of their potential liability

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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 percent** of their potential liability

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Calculating the Bond Penal Sum

- Quarterly Filers – 29 percent and Annual Filers 10 percent of beer:
 - Received in the brewery from breweries of the same ownership
 - Removed without payment of tax for export or supplies on vessels and aircraft
 - Removed without payment of tax for use in research, development, and testing
 - Removed for consumption or sale
 - Received in bulk (imported malt beverages)

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HOST FOR ALTERNATING
PROPRIETORSHIPS



Host For Alternating Proprietorships

- “Alternating proprietorship” refers to 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”
- The tenant qualifies as a brewer with TTB

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Host For Alternating Proprietorships (Cont'd)

- The tenant 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
- The tenant brewer has title to the beer at all stages of the brewing process

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Required Documents

- An amended Brewer's Notice, TTB Form 5130.10 - The attachments to the Notice must describe the portion of the brewery premises and equipment to be periodically alternated and the tenant brewers with whom it will alternate
- The amended Notice must include a diagram that identifies the areas the alternating brewers plan to use

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Required Documents (Cont'd)

- See Exhibit 3: Industry Circular 2005-2 and Exhibit 4: Helpful Hints for Brewery Alternating Proprietorships
- An attachment to the Brewer's Notice that describes security at the brewery
- A Consent of Surety, TTB Form 5000.18, that conveys consent to the periodic alternation of premises with the tenant brewer

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Required Documents (Cont'd)

- A request for an alternate method of operation to permit use of the brewery for other purposes
- A request for an alternate method of operation to allow the use of brewery records as the record of extension and curtailment of brewery premises, in lieu of filing an amended TTB Form 5130.10 with each alternation of the brewery premises

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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
- See Exhibit 5: Helpful Hints for Brewery Discontinuance

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Required Documents

- You must file:
 - A Brewer's Notice, TTB Form 5130.10, signed by an authorized individual. The form should show Discontinuance of Business as the reason filed, along with the date of discontinuance .
 - A final TTB Form 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" amount at the end-of-period.
 - A final TTB Form 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).

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Summary

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

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Contact Information

National Revenue Center:
1-877-882-3277

Brewery & Wholesaler / Importer
Applications Section:
(513) 684-3337

www.ttb.gov

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