

§ 25.61

(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 ATF 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 ATF officer may withdraw approval of an alternate method or procedure, approved under paragraph (a) or (b) of this section, if the appropriate ATF 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]

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 ATF 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 busi-

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ness 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 ATF 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) A statement of process for fermented beverages if required by § 25.67.

(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 ATF 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))

§ 25.63 Notice of registration.

The Brewer's Notice, Form 5130.10, when approved by the appropriate ATF officer, will constitute the notice of registration of the brewery. The appropriate ATF 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 ATF 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 ATF 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 ATF 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, by-laws, 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 ATF officer upon request. In the case of multiplant brewers, these documents may be made available at the