

2009 TTB Expo Presentation

Reporting Changes to TTB for Tobacco Permittees

Presented by

Pam Becker, Industry Specialist and

Linda Meier, Permit Specialist

National Revenue Center



Overview

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

Types of Changes to Report to TTB

Types of Changes to Report

- Changes to:
 - Your company,
 - Ownership/control,
 - Personnel, and
 - Name and location of factory.
- Some changes must be approved prior to implementation, while others can be reported after the change.

Types of Changes to Report (Continued)

- Change in ownership
- Change in control
- Change of officers/directors/stockholders
- Change in individual name
- Change in trade name
- Change in corporate name

Types of Changes to Report (Continued)

- Change of address
- Change in location of factory
- Extension or curtailment of premises
- Other changes:
 - Change in signing authority
 - Bonds

Required Documentation and Timing for Reporting Changes

Change of Ownership

- Fiduciary successor—court appointed:
 - Intend to take over business as a continuing operation
 - Intend to liquidate the business

Transfer of Ownership

- When an existing proprietor has new ownership
- Includes a change in any member of a partnership or association
- When an existing proprietor changes entity type
- The new owner (successor) must qualify for and receive a permit before beginning operations
- The predecessor must submit documents as required for discontinuance

Change of Control

- A new person or company owns more than 50% of the outstanding stock or obtains more than 50% ownership interest
- Corporate manufacturer shall within 30 days of change file an application for permit—otherwise, permit automatically terminates
- If a new stockholder holds more than 10% of 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 changes/amends its legal name (not a change of ownership or business entity type)
- Application for an amended permit, must be filed within 30 days of the change
- The Amended Articles of Incorporation or Amended 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 more than 10%
- Permit holder shall within 30 days of the action, notify TTB in writing
- Update signing authority
- 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:
 - This form is filed where authorization is granted by the Articles of Incorporation or Organization, the By-Laws, or action by the Board of Directors or Managing Members.

Note: Signing authority remains in effect unless TTB is notified in writing of a change; OR when a new TTB F 5100.1 is filed to supersede the information currently on file.

Adding or Removing Signing Authority (Continued)

- TTB F 5000.8, Power of Attorney – Is used when granting authority to individuals (consultants, attorneys, bookkeepers, and other persons).
- A power of attorney remains in effect until revoked by the Principal in written notice to the Director of the NRC.

Change, Addition or Discontinuance of Trade Name

- Within 30 days of change, the permit holder shall make application for amended permit
- Provide 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

Change of Location

- Before commencing operations at the new location, tobacco permit holder must:
 - Make application for and obtain an amended permit
 - Furnish a new diagram
 - If appropriate:
 - File TTB F 5000.29, Environmental Information
 - File TTB F 5000.30, Supplemental Information on Water Quality Considerations
 - Furnish proof of ownership of new location, or if space is leased — the lease agreement

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 tobacco permit holder:
 - File Application for Amended Permit within 30 days of the change

Note: There is no change of location of the factory, export warehouse, or tobacco importer business in these instances.

Extension or Curtailment of Premises

- If a tobacco products manufacturer or export warehouse proprietor will be extending or curtailing their premises, they must file an application for and obtain an amended permit.
- If extending premises, manufacturers of tobacco products or cigarette papers/tubes may have to file Environmental Information, TTB F 5000.29, and Water Quality Considerations, TTB F 5000.30, as well.

Bonds — Superseding or Strengthening

Bonds

- Superseding — terminates all bonds currently on file
- Strengthening — increases current bond on file
- Blanket (only filed by manufacturers of tobacco products that have multiple manufacturer permits with TTB)
- Change in Bond (formerly called Extension of Coverage of Bond)

Calculating Amount of Individual Bond

- For manufacturers of tobacco products, amount of bond must be not less than the total amount of tax liability on all tobacco products, which are in any calendar month:
 - Manufactured in his factory
 - Received in bond from other factories
 - Received in bond from export warehouses
 - Released in bond from Customs custody
- Maximum bond \$250,000—see 27 CFR 40.133

Bond Amount for Export Warehouse

- For export warehouse proprietors:
 - Amount of bond must be not less than the estimated amount of tax, which may at any time constitute a charge against the bond.
 - Maximum bond — \$200,000

Bond Amount for Export Warehouse (Continued)

- Charges against the bond may include:
 - Exports for which proof has not be provided
 - Inventory on hand at the end of the month
 - Shortages in inventory

Common Bond Problems

- Principal name must appear exactly as it is registered with the State
- Item 9—confusion regarding box checked for “Individual” vs. “Blanket bond”
- Surety power of attorney must be attached and properly signed and dated
- Insufficient amount of bond
- Missing witness signatures or seals

Maintaining Sufficient Bond Coverage

Maintaining Sufficient Bond Coverage—TP

- Where the amount of any tobacco products manufacturer's bond is no longer sufficient and the bond is in less than the maximum amount, the manufacturer shall immediately file a strengthening or superseding bond.
- Where a bond is not filed as required, the manufacturer shall discontinue forthwith the operations to which such bond relates.

Maintaining Sufficient Bond Coverage—EW

- When the limit of liability under a bond given in less than the maximum amount has been reached, no additional shipments shall be received into the warehouse until a strengthening or superseding bond is filed.

Discontinuance of Business

Discontinuance of Operations

- Manufacturers of tobacco products shall:
 - Dispose of all tobacco products on hand
 - Make a concluding inventory
 - Make a concluding report
 - File a final excise tax return
 - Surrender permit with inventory and report

Discontinuance of Operations (Continued)

- Every export warehouse proprietor desiring to discontinue operations shall:
 - Dispose of all tobacco products
 - Make a closing inventory
 - Make a closing report
 - Surrender permit with report and inventory

Discontinuance of Operations (Continued)

- Manufacturers of Tobacco Products:
 - 27 CFR 40.331
- Export Warehouse Proprietors:
 - 27 CFR 44.161
- Importers of Tobacco Products:
 - 27 CFR 41.206(d)
- Manufacturers of Cigarette Papers and Cigarette Tubes:
 - 27 CFR 40.461

Summary

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

Contact Information

National Revenue Center:

1-877-882-3277

www.ttb.gov