



# Navigating the Permit, Formula, and COLA Process

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DISCUS INAUGURAL CONFERENCE

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# TTB Disclaimer

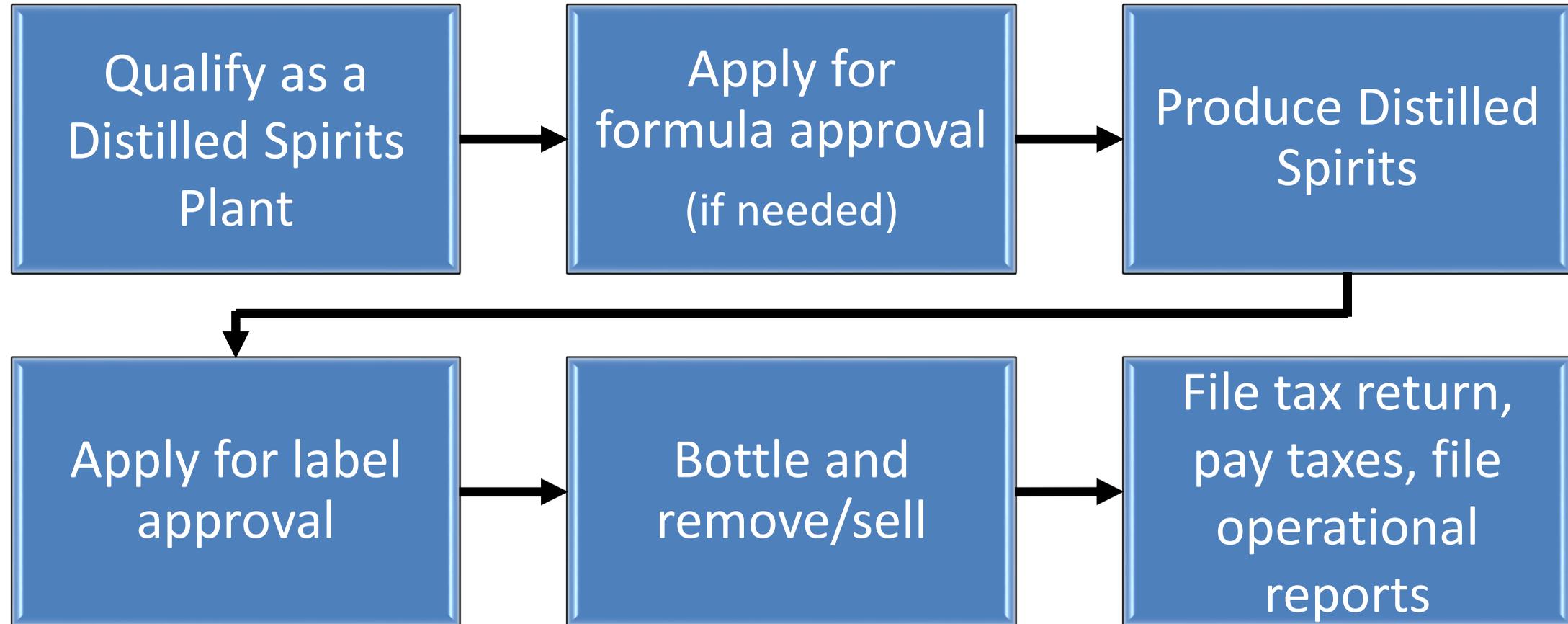
## **Notice:**

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 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 regulations for the most current regulatory requirements.

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



# Follow the TTB Path

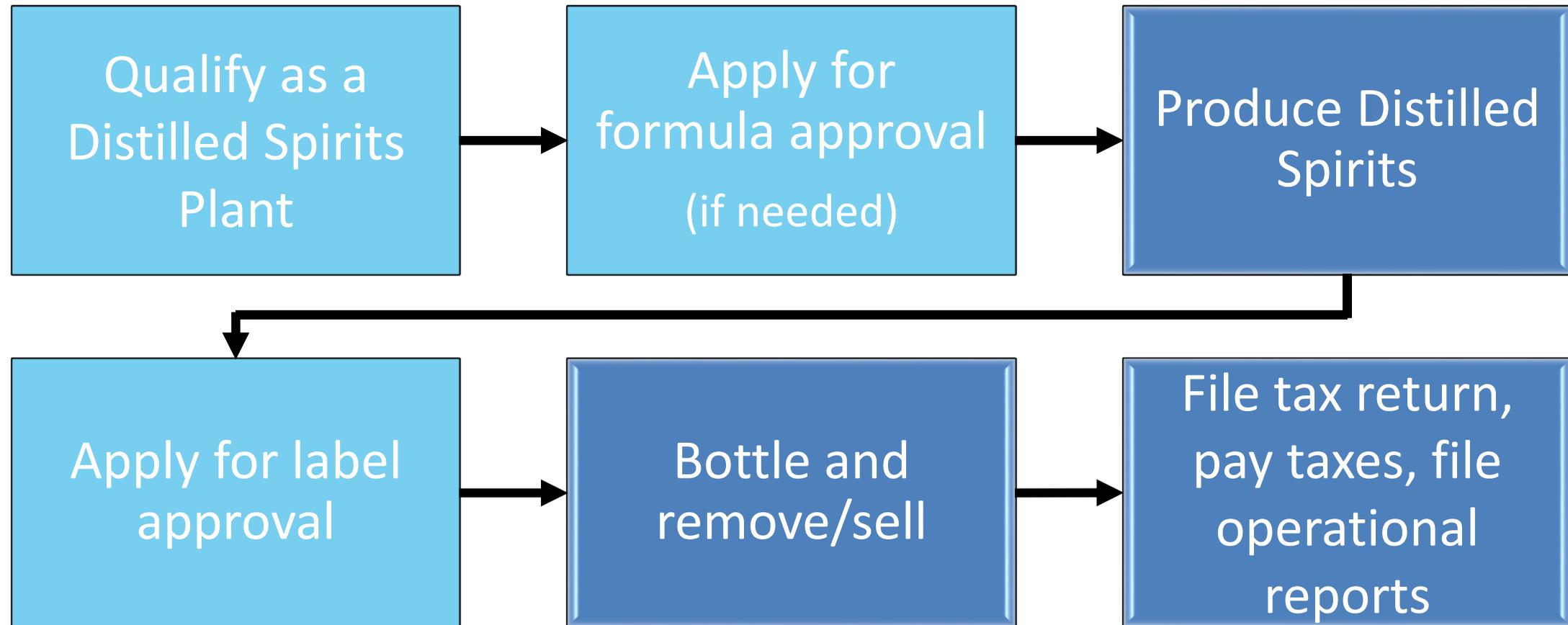


**Ongoing once your DSP is approved:**

- 1) Keep records of Distillery operations
- 2) Report changes to your business or Distillery to TTB



# Follow the TTB Path



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# Beverage DSP Registrations & Permits

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TROY MOON

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# Bond Requirements

## **The PATH Act amended the IRC regarding bonds:**

- Taxpayers who reasonably expect to be liable for not more than \$50,000 in taxes for the calendar year, and
- were liable for not more than \$50,000 in such taxes in the preceding calendar year
- are exempt from the requirements to file bonds covering operations or withdrawals

Industry Circular 2016-2



# Transfers in Bond

- If you will receive bulk spirits in bond from another domestic distilled spirits plant, you should complete this section of the application **even if you are not required to obtain a bond**
- Once approved, a transfer in bond form will be attached to your application and you should supply a copy to the supplier(s) transferring the spirits to you

27 CFR 19.402 & 19.403



# Definitions

**Bonded premises.** The premises of a distilled spirits plant, or part thereof, as described in the application for registration, **on which the conduct of distilled spirits operations defined in 26 U.S.C. 5002 is authorized.** This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in §19.151(d), has not provided a bond for the premises.

27 CFR 19.1



# Definitions

**General premises.** Any business office, service facility, or other part of the premises described in the notice of registration other than bonded premises. For example: storage of taxpaid spirits, offices, lunch room, restrooms and non-alcohol storage.

27 CFR 19.1



# Definitions

## DSP Operations:

- **Distiller**
  - produces spirits
- **Warehouseman**
  - stores bulk spirits
- **Processor**
  - Rectifies (e.g., making changes by cutting, blending, mixing)
  - Bottles

27 CFR 19.1



# Restrictions on Location of Plants

**A person who intends to establish a distilled spirits plant may not locate it in any of the following places:**

**(a) In any residence, shed, yard, or enclosure connected to a residence;**

(b) On any vessel or boat;

(c) Where beer or wine is produced;

**(d) Where liquors are sold at retail; or**

(e) Where any other business is conducted except as provided in §19.54.

19 CFR 19.52

26 U.S.C. 5178



# Tasting Rooms

DSP applicants are asked a series of questions in Permits Online to help distinguish what can and cannot be done at a distillery

Will you have a tasting room?: \*  Yes  No

If you charge for samples, parking, or tours then you are prohibited from establishing a tasting room on the premises. The tasting room must be separate from the distillery with floor to ceiling walls and must have its own entrance. It cannot be part of the distilled spirits plant and must be shown on the diagram. Do you understand this requirement?: \*  Yes  No

If you do not plan to charge for samples, parking, or tours then the tasting room can be located on the general premises, but must be separate from the bonded premises with floor to ceiling walls, have its own entrance and be shown on the diagram. Do you understand this requirement?: \*  Yes  No



# Retail Stores

DSP applicants are asked a series of questions in Permits Online to help distinguish what can and cannot be done at a distillery

Will you have a retail store?: \*  Yes  No

If you are only selling merchandise (e.g., shirts, souvenirs) then the retail store can be located on the general premises and should also be shown on the diagram. Do you understand this requirement?: \*  Yes  No

Do you plan to sell any alcohol in the retail store?: \*  Yes  No

If any alcohol is sold in the retail store then you are prohibited from establishing it on the premises. The retail store must be separated from the premises by floor to ceiling wall separation and have its own entrance from the outside. Do you understand this requirement?: \*  Yes  No



## Did You Know...?

- Generally, before you submit your application, construction should be complete with necessary equipment in place or on order
- You cannot begin producing spirits until you receive your approved DSP Registration and Permit



# 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>



# What to Gather Before You Apply

There are a number of supporting documents that you'll be required to submit with your application

Plan ahead and review the list before you begin the application



# What to Gather Before You Apply

- Organizational Documents
- Lease Agreement or Proof of Ownership
- Signing Authority Authorization
  - Signing Authority Form 5100.1
  - Power of Attorney Form 5000.8
- Diagram of the DSP



# 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



# You Must Report to TTB:

## **Changes 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**



# Permits Online Guidance

Permits Online will guide you through the entire application process, but if you want to see guidance before you start:

- [Permits Online Help Center](#)
- [Permits Online tutorial](#)

# Distilled Spirits Formulas

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# Common Formula Questions

- What is a formula?
- Why is a formula required?
- What types of distilled spirits require formula review?
- How is a formula submitted?



# What is a Formula - A Basic Definition

- A formula is a **recipe**
- It must indicate a **total yield**, or **batch size**
- It must have a **quantitative list of ingredients**
- It must include a **description of how the product is produced**



# Why is a Formula Required?

**Generally, an approved formula is required to:**

- Blend
- Mix
- Purify
- Refine
- Compound
- Or treat spirits in a manner which results in a change of:
  - Character
  - Composition
  - Class or type of the spirits

27 CFR 5.26



# Why are Formulas required?

- [27 CFR 5.22](#) contains the 12 Standards of Identity
  - Some classes are straightforward, for example, Rum, while other products have more working parts that require label disclosure
  - A product may have a particular requirement to satisfy in order to belong to a given class
- Formula review finds a “home” for a product and describes its working parts
- A class, type, or statement of composition represents the outcome of this process
  - Additional information may be added for labeling reasons
- Not all products will require a formula



# When is a Formula Required?

- The use (except as authorized for production or storage operations as provided by 27 CFR part 19) of any physical or chemical process or any apparatus which accelerates the maturing of the spirits
- The steeping or soaking of fruits, berries, aromatic herbs, roots, seeds, etc., in spirits and wines
- The artificial carbonation of spirits
- The blending in Puerto Rico of spirits with any liquors manufactured outside of Puerto Rico

[Which Alcohol Beverages Require Formula Approval Tool](#)

27 CFR 5.27



# How to Submit a Formula

- **Formulas Online** is part of the TTB electronic storefront on **[www.ttbonline.gov](http://www.ttbonline.gov)**
  - You must register for an account before you can use Formulas Online:
  - **User Registration Form**



# Common Formula Errors

- Submitter unaware of Class-Type and Standards of Identity requirements
- Incomplete application
- Role of compounded flavors in products
- Impact of limited ingredients on product classification
- GRAS (or **generally recognized as safe**) requirements



# Helpful Hints

- Supply quantitative list of ingredients
- Provide complete method of manufacture
- Indicate proof at distillation
- Flavor Ingredient Data Sheets (FIDS) should include TTB number, Flavor Product Number, and TTB Approval status (Nonbeverage Products Laboratory approval)
- Provide common name and scientific name (genus and species) for any unusual herbal ingredients
- Ensure that ingredients are GRAS (generally recognized as safe)



# What TTB Looks For

- Correct designation (Class and Type) – Is the base produced according to the stated standard?
- Colors
- Flavors and Flavor Ingredient Data (FID) sheets
- GRAS (generally recognized as safe) ingredients
- Restricted and prohibited ingredients



# Compounded Flavors

- May be classified as:
  - All natural
  - Natural and artificial containing not more than 0.1% artificial content topnote
  - Natural and artificial containing greater than 0.1% artificial content topnote
  - All artificial
  - Non-flavor: product is not a flavor (e.g., cloud emulsion)
- Must be submitted to TTB Nonbeverage Products Laboratory for review
- May contain colors



# GRAS and Restricted Ingredients

- Regulated by the U.S. Food and Drug Administration
- GRAS – **G**enerally **R**ecognized **a**s **S**afe
  - Under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act, any substance that is intentionally added to food is a food additive, that is subject to premarket review and approval by FDA, unless the substance is generally recognized, among qualified experts, as having been adequately shown to be safe under the conditions of its intended use, or unless the use of the substance is otherwise excluded from the definition of a food additive
- Restricted ingredients



# Formula Resources

- [Formula Approval guidance pages on TTB.gov](#)
- [Distilled Spirits Beverage Alcohol Manual \(BAM\)](#)
  - [BAM Chapter 1](#): Commodity Statements
  - [BAM Chapter 4](#): Quick product reference guide stating basic technical requirements
  - [BAM Chapter 7](#): Provides chart listing limitations placed on harmless coloring blending and flavoring materials (HCBFM)



# Are Formulas Required for all Products?

**No**, not all products require formula review

Time saving resources:

- [Which Alcohol Beverages Require Formula Approval Tool](#)
- [TTB G 2016-3 - Pre-COLA Product Evaluations for Distilled Spirits Products](#)
- [TTB G 2017-5 - Alcohol Beverage Formula Approval with Lab Sample Analysis](#)
- [TTB Ruling 2016-3 - TTB Approves General-Use Formulas for Certain Distilled Spirits Produced Using Harmless Coloring, Flavoring, or Blending Materials](#)

# Distilled Spirits Labeling Overview

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# Basics of the Labeling Process

- What is a COLA?
- Why is label approval required?
- How is a COLA submitted?
- Where can I get more information?



# What is a COLA?

## A **Certificate of Label Approval** is:

- A certificate issued on TTB Form 5100.31
- that authorizes
  - the bottling or packing of wine, distilled spirits, or malt beverages, or
  - the removal of bottled wine, distilled spirits, or malt beverages from Customs custodyfor introduction into interstate commerce,
- as long as the product bears
  - labels identical to the labels affixed to the face of the certificate, or
  - labels with changes authorized by the certificate

27 CFR 13.11



# Why is Label Approval Required?

- Imported distilled spirits may not be removed from Customs custody without a COLA
- Domestic distilled spirits may not be bottled or removed from a plant without a COLA
- Exemptions

27 CFR 5.51, 5.55



# How is a COLA Obtained?

COLAs Online is accessible from TTB.gov

- You must register for an account before you may use COLAs Online
- User Registration Form

27 CFR 13.21



# Common DS Labeling Errors

- Class/Type entered in the brand name field
- Formula is required before applying for label approval
- Label images are distorted
- The brand name listed on application does not match brand name on label
- Name and address on label does not match that shown on application
- Translation of foreign text on label must be supplied
- Alcohol content on label conflicts with approved formula
- Brand label requirements have not been met



# Where Can I Find More Information?

- [TTB regulations](#): 27 CFR parts 5, 16, 19, and 27
- [www.TTB.gov](http://www.TTB.gov)
- [Distilled Spirits Beverage Alcohol Manual \(BAM\)](#)
- [List of Allowable Revisions](#)
- [Distilled Spirits FAQs](#)
- [Organic Labeling](#)
- ALFD Technical Information Center (TIC)
  - 866.927.2533 Option 4
  - [ALFD@TTB.gov](mailto:ALFD@TTB.gov)