TTB Boot Camp for Distillers

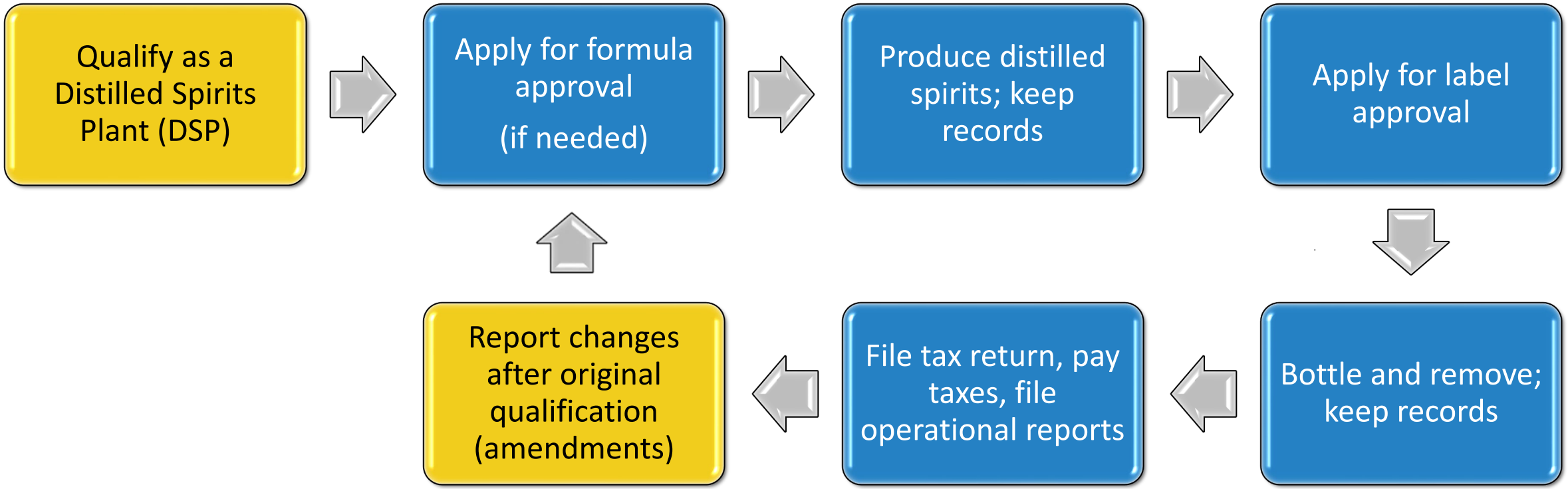
PERMITS

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

Typical TTB Touchpoints for Beverage Distilled Spirits Industry Members



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, lunchroom, restrooms and non-alcohol storage

27 CFR 19.1

Definitions (Cont.)

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 (distilling, warehousing, processing) is authorized
- This term applies regardless of whether or not the proprietor is required to hold a bond

27 CFR 19.1

Bond Basics

A bond is similar to an insurance policy

- If you fail to pay any tax liability covered by a bond, TTB may seek payment from you, from the surety who issues your bond, or from both
- Your individual circumstances dictate if you need a bond and if yes, the type(s) of bond coverage:
  - What is your anticipated excise tax liability?
  - Which DSP operations will you conduct?
  - Will your operations involve industrial, beverage or both types of alcohol?

27 CFR part 19 subpart F

Do You Need a Bond?

The PATH Act (2017) 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

‘Bond’ and ‘Bonded’ Used in TTB Regulations

- The terms **bond** and **bonded** are used to modify certain terms throughout 27 CFR part 19, the TTB regulations governing DSPs
- When used, they apply to distilleries with a bond or that are exempt under the PATH Act from having a bond
- Examples include:
  - Bonded premises
  - Transfer in bond

Receiving Spirits in Bond

- If you will receive bulk spirits in bond from another domestic distilled spirits plant, you should complete TTB Form 5100.16, even if you are not required to obtain a bond
  - Use $13.50 per proof gallon when calculating the potential liability on transferred spirits
- Once approved, a transfer in bond form will be attached to your application and you should supply a copy to the supplier transferring the spirits to you

27 CFR 19.402 & 19.403

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) Within any residence, shed, yard, or enclosure attached to a residence;

(b) On any vessel or boat;

(c) In locations where beer or wine is produced;

(d) At places where liquors are sold retail; or

(e) In any other business premises except as allowed under §19.54.

27 CFR 19.52

Did You Know…?

- Before your application is approved, construction of your premises 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

27 CFR 19.192

Who is the Applicant?

Before you apply, it is vital to determine who will be the owner/operator of the TTB regulated business

- Sole proprietor?
- Partnership?
- Corporation?
- LLC?
- Some other type of entity?

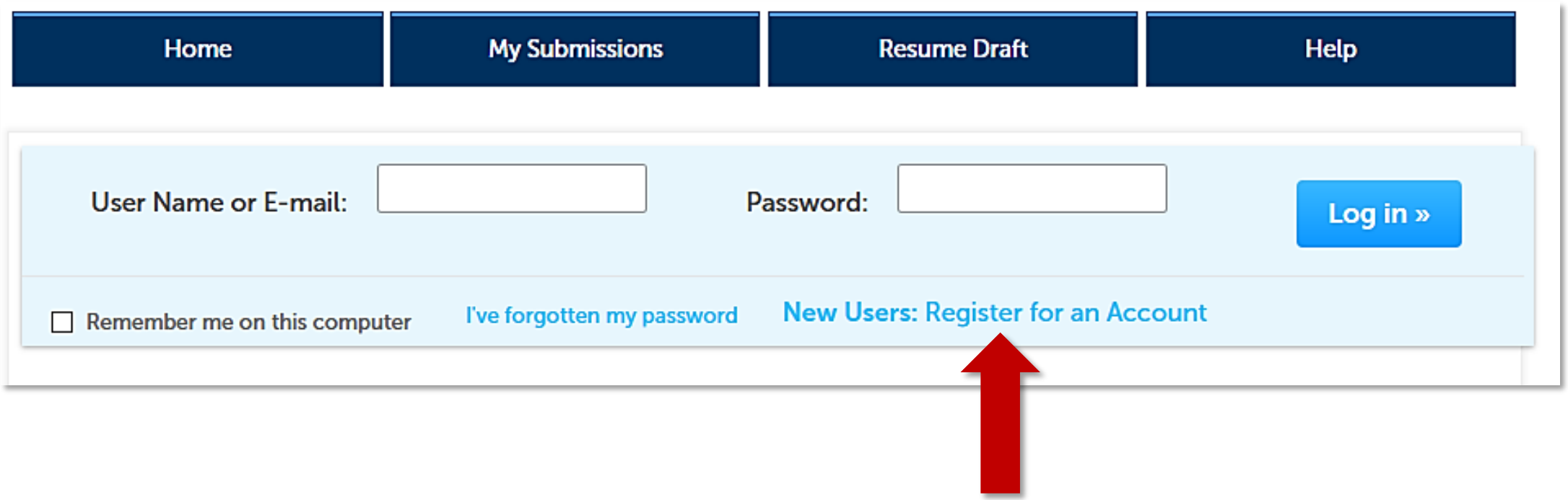
What to Gather Before You Apply

- There are a number of supporting documents that you'll be required to submit with your application
- Plan ahead and gather these documents before you begin the application

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
- Description or Diagram of the DSP

Register for an Account in Permits Online



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 (type and location) the entity is approved to conduct

A typical entity record will have at least 1, but may have multiple commodity operations records associated with it

Business Entity and Commodity Operations

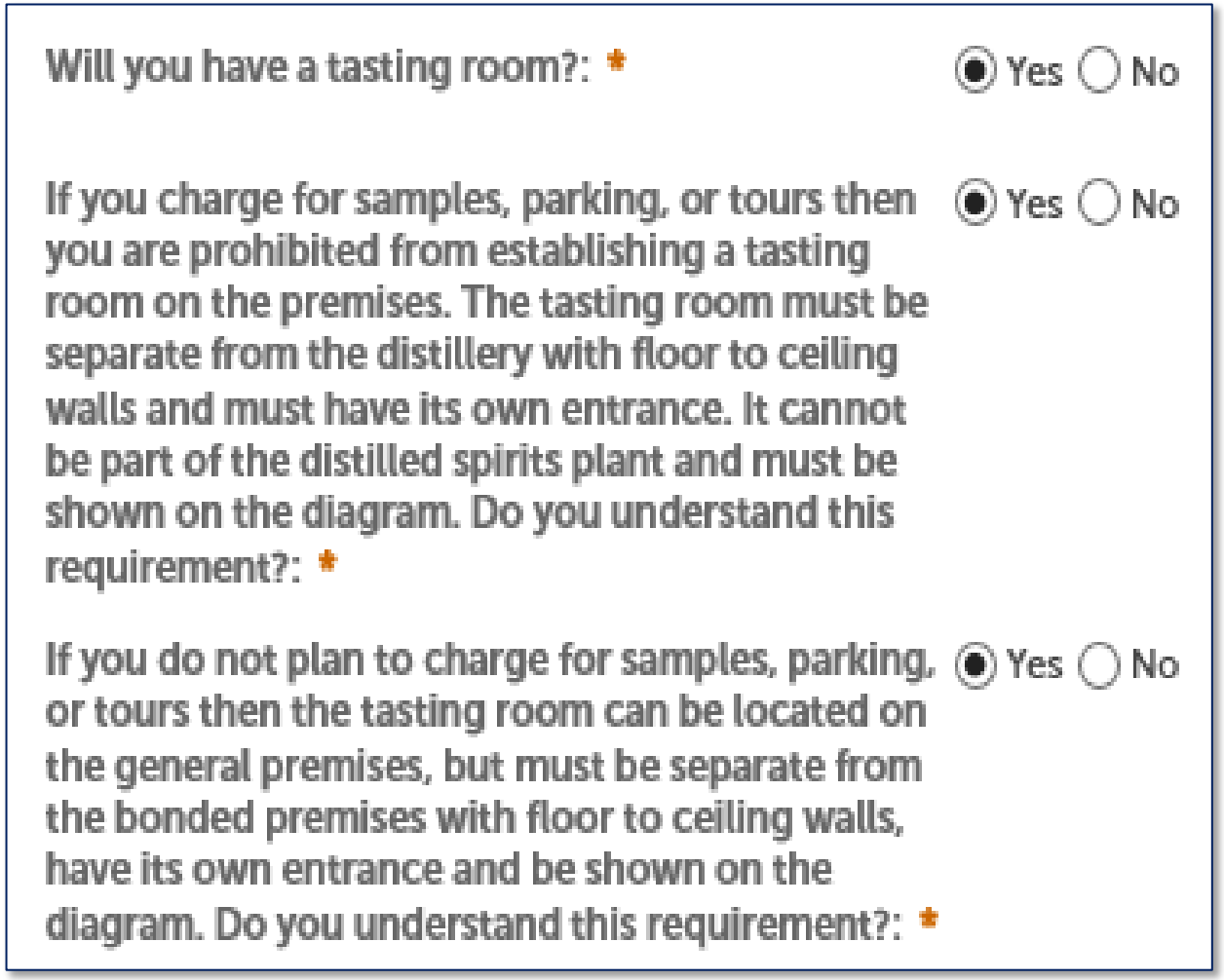
- When applying to start your first TTB-regulated business, you'll complete 1 **new entity application** and a **new commodity operations application** for each operation (type and location) you intend to conduct
- When you file an amendment related to the business entity, you will file 1 application and the changes are associated with each operation you conduct
  - Examples: a new officer or new POA

Business Entity and Commodity Operations



Permits Online Questions

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



Changes to Your Entity that You Must Report to TTB

Changes in:

- Legal business name
- Controlling ownership
- General partner
- Any stockholder or members holding ownership of 10% or more
- Corporate officer, directors, or any similar positions

Adding, revoking, or changing:

- Signing authority
- Power of attorney

Termination of all TTB-regulated operations under your EIN (going completely out of business)

Changes to Your Commodity Operations That You Must Report to TTB*

Change in:

- Premises location
- Bond
- Construction or use of building
- Operations
- DBA/Operating name

Adding or removing:

- Trade names
- Noncontiguous premises
- Alternation of premises
- Alternation of proprietor
- Variance or alternate method

Termination of operations at 1 location, but keeping other operations/locations under the same EIN open

*requirements vary slightly by commodity operation

Alternation of Premises

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

If you are an already established DSP and wish to add a winery or brewery, you must submit:

- A new application for the commodity operations that you are adding
- Updated diagram showing which areas will be alternating
- Change in Bond (Consent of Surety) TTB Form 5000.18

You may also submit:

- Variance request to use brewery for another purpose
- Variance from the requirement to submit notification of each alternation

27 CFR 19.627

Alternation of Proprietorship

Two or more proprietors with different EINs conduct the same type of operations at the same premises, and space and/or equipment alternates between proprietors

Generally, the proprietor of an existing DSP, the host distiller, agrees to rent space and equipment to a new tenant distiller

The host and tenant of an alternating proprietorship are required to submit:

- An alternating proprietorship agreement (a contract between the host and tenant)
- Updated diagram showing which areas will be alternating and which will be the permanent non-alternating space of both the host and tenant
- A variance request for an alternate method or procedure from 27 CFR 19.141(b), so that the proprietor does not need to file a letterhead notice prior to each alternation

27 CFR 19.141

Resources

Resources	
Apply for a Permit: Qualifying with TTB https://www.ttb.gov/regulated-commodities/beverage-alcohol/distilled-spirits/permits	**Permits Online Customer Page** https://www.ttb.gov/online-services/ponl/customer-support
Permits Online Tutorial https://www.ttb.gov/online-services/ponl/ponl-launch	**State Alcohol Beverage Authorities** https://www.ttb.gov/business-central/alcohol-beverage-authorities-in-united-states-canada-and-puerto-rico
Alcohol FAQs https://www.ttb.gov/faqs/alcohol	**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/online-services/ponl/ponl-help/permits-online-overview-of-the-application-process	**Laws, Regulations, and Public Guidance** https://www.ttb.gov/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)

Thank You for Watching!

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

https://www.ttb.gov/survey

TTB Boot Camp for Distillers Video Series

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