§ 25.272 Application.

(a) Form of application. Any person desiring to establish a pilot brewing plant under this subpart shall file an application with the appropriate TTB officer. The application will be in writing and will include the following:

(1) Name and address of the applicant;

(2) Description of the premises and equipment to be used in the operations;

(3) Nature, purpose, and extent of the operations; and

(4) A statement that the applicant agrees to comply with all provisions of this part applicable to the operations to be conducted.

(b) Additional information. The appropriate TTB officer may at any time before or after approval of an application, require the submission of additional information necessary for administration of this part or for protection of the revenue.

(c) Authorization of operations. The appropriate TTB officer may authorize the operation of a pilot brewing plant if it is determined that the plant will be operated solely for one or more of the purposes specified in § 25.271, and that operations will not jeopardize the revenue.

(d) Withdrawal of authorization. The appropriate TTB officer may withdraw authorization to operate a pilot brewing plant if in his or her judgment, the revenue would be jeopardized by the operations of the plant.

(e) Commencement of operations. A person may not begin operation of a pilot brewing plant until the appropriate TTB officer has approved the application required by this section.

§ 25.273 Action on application.

If the appropriate TTB officer approves the application for a pilot brewing plant, he or she will note approval on the application and forward a copy to the applicant. The applicant must file the copy of the approved application at the premises, available for inspection by an appropriate TTB officer.

§ 25.274 Bond.

(a) Requirement. Any person requesting authorization to establish a pilot brewing plant under this subpart shall execute and file a brewer’s bond, Form 5130.22. A person may not begin operation of a pilot brewing plant until receiving notice from the appropriate TTB officer of the approval of the bond. Operations may continue only as long as an approved bond is in effect.

(b) Penal sum. The penal sum of a bond covering the premises of a pilot brewing plant will be an amount equal to the potential tax liability of the maximum quantity of beer on hand, in transit to the plant, and unaccounted for at any one time, computed by multiplying the quantity of beer in barrels by the rate of tax in 26 U.S.C. 5051. The penal sum of the bond (or total penal sum if original and strengthening bonds are filed) may not exceed $50,000 or be less than $500.

(c) Conditions of bonds. The bond will be conditioned that the operator of the pilot brewing plant shall pay, or cause to be paid, to the United States according to the laws of the United States and the provisions of this part, the taxes, including penalties and interest for which the operator shall become liable, on all beer brewed, produced, or received on the premises.

§ 25.275 [Reserved]

§ 25.276 Operations and records.

(a) Commencement of operations. A person may commence operation of a pilot brewing plant upon receipt of the approved application and bond.

(b) Reports. The operator of a pilot brewing plant is not required to file the Brewer’s Report of Operations, Form 5130.9.

(c) Records. The operator of a pilot brewing plant must maintain records
which, in the opinion of the appropriate TTB officer, are appropriate to the type of operation being conducted. These records will include information sufficient to account for the receipt, production, and disposition of all beer received or produced on the premises, and the receipt (and disposition, if removed) of all brewing materials. These records will be available for inspection by an appropriate TTB officer.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))


§ 25.277 Discontinuance of operations.

When operations of a pilot brewing plant are to be discontinued, the operator shall notify the appropriate TTB officer stating the purpose of the notice and giving the date of discontinuance. When operations have been completed and all beer at the premises has been disposed of and accounted for, the appropriate TTB officer will note approval on the notice and return a copy to the operator.

Subpart T—Refund or Adjustment of Tax or Relief From Liability

§ 25.281 General.

(a) Reasons for refund or adjustment of tax or relief from liability. The tax paid by a brewer on beer produced in the United States may be refunded, or adjusted on the excise tax return, or, if the tax has not been paid, the brewer may be relieved of liability for the tax on:

(1) Beer returned to any brewery of the brewer subject to the conditions outlined in subpart M of this part;

(2) Beer voluntarily destroyed by the brewer subject to the conditions outlined in subpart N of this part;

(3) Beer lost by fire, theft, casualty, or act of God subject to the conditions outlined in § 25.282.

(b) Refund of beer tax excessively paid. A brewer may be refunded the tax excessively paid on beer subject to the conditions outlined in § 25.283.

(c) Rate of tax. Brewers who have filed the notice required by § 25.167 and who have paid the tax on beer at the reduced rate of tax shall make claims for refund or relief of tax, or adjustments on the tax return, based upon the lower rate of tax. However, a brewer may make adjustments or claims for refund or relief of tax based on the higher rate of tax if the brewer can establish to the satisfaction of the appropriate TTB officer that the tax was paid or determined at the higher rate of tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.282 Beer lost by fire, theft, casualty, or act of God.

(a) General. The tax paid by any brewer on beer produced in the United States may be adjusted (without interest) on the excise tax return, may be refunded or credited (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax if, before transfer of title to the beer to any other person, the beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. The tax liability on excessive losses of beer from transfer between breweries of the same ownership may be remitted as provided in § 25.286.

(b) Unmerchantable beer. When beer is rendered unmerchantable by fire, casualty, or act of God, refund, credit or adjustment of tax, or relief from liability of tax will not be allowed unless the brewer proves to the satisfaction of the appropriate TTB officer that the beer cannot be salvaged and returned to the market for consumption or sale.

(c) Beer lost or destroyed. When beer is lost or destroyed, whether by theft or otherwise, the appropriate TTB officer may require the brewer to file a claim for relief from the tax and to submit proof as to the cause of the loss.

(d) Beer lost by theft. When it appears that beer was lost by theft, the tax shall be collected unless the brewer proves to the satisfaction of the appropriate TTB officer that the theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.