



December 2, 2024

VIA ELECTRONIC SUBMISSION

Amy Greenberg
Director
Regulations and Ruling Division
Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW
Washington, DC 20005

Re: Modernization of Permit Application for Wine Premises: TTB-2024-0005; RIN 1513-AC47

Dear Ms. Greenberg:

On October 2, 2024, the Department of the Treasury’s Alcohol and Tobacco Tax and Trade Bureau (TTB) published a notice of proposed rulemaking (NPRM) on Modernization of Permit Application Requirements for Wine Premises.¹ If adopted, the rule would enact “deregulatory amendments” to its regulations to modernize and streamline the application requirements for wine premises, as well as relax some reporting requirements associated with changes to the business of proprietors of wine premises.

The proposed rule is part of a broader effort initiated by TTB in 2017 to evaluate the information the agency collects from applicants for permit registration applications with the purpose of identifying ways to streamline the application process, reducing the burden on the regulated industry, and ensuring that the process collects only information that is necessary to meet the agency’s statutory obligations.² The Office of Advocacy believes these goals are commendable and the proposed rule will reduce regulatory compliance costs for small entities in the wine industry. Advocacy also recommends that TTB consider adopting additional amendments that could further reduce these costs through this rulemaking.

¹ 89 Fed. Reg. 80160 (Oct. 2, 2024).

² *Id.* at 80,161.

I. Background

A. The Office of Advocacy

Congress established the Office of Advocacy (Advocacy) under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the SBA that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. As such, the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration.

The Regulatory Flexibility Act (RFA),³ as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),⁴ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives. If a rule will not have a significant economic impact on a substantial number of small entities, agencies may certify the rule and the certification must be accompanied by a statement of factual basis that adequately supports its certification.⁵

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.⁶ The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.⁷ Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."⁸

B. The Proposed Rule

On October 2, 2024, the Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau (TTB) published a notice of proposed rulemaking (NPRM) on Modernization of Permit Application Requirements for Wine Premises.⁹ If adopted, the rule would enact "deregulatory amendments" to its regulations to modernize and streamline the application requirements for wine premises, as well as relax some reporting requirements associated with changes to the business of proprietors of wine premises. This NPRM was published as part of a broader effort

³ 5 U.S.C. § 601 et seq.

⁴ Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

⁵ 5 U.S.C. § 605(b).

⁶ Small Business Jobs Act of 2010, Pub. L. 111-240, §1601.

⁷ *Id.*

⁸ *Id.*

⁹ 89 Fed. Reg. 80160 (Oct. 2, 2024).

by TTB starting in 2017 to evaluate the information the agency collects from applicants for permit and registration applications.¹⁰

Since 2017, TTB states it has “identified deregulatory actions that TTB can take by amending regulations and also, where rulemaking is not required, by amending guidance and forms.”¹¹ As part of this effort, TTB has published rulemaking concerning the Internal Revenue Code (IRC) permit and registration application requirements for distilled spirits plants and application requirements for Federal Alcohol Administration Act basic permits,¹² and rulemaking concerning Brewer’s Notices filed with TTB under the Internal Revenue Code (IRC).¹³

Specifically, the NPRM proposes to:

- eliminate requirements to provide narrative descriptions of certain operations when applying to establish a wine premises;
- more narrowly tailor requirements to describe the wine premises to specifically correspond with statutory requirements, and consolidate requirements to provide descriptions of alternation operations as part of the general wine premises description;
- extend deadlines for reporting certain changes in the business from 30 to 60 days;
- allow proprietors of wine premises to use new trade names by notifying TTB in lieu of filing an amended application; and
- allow proprietors of wine premises to maintain required records at a location other than the permitted premises without first obtaining TTB approval.¹⁴

Although not directly part of the proposed rule, the NPRM also discusses TTB’s efforts to streamline its guidance and forms as part of the broader endeavor. TTB specifically highlights the agency’s multiyear initiative to develop and launch myTTB, which the agency describes as “a single, online interface for all industry transactions with TTB, including qualification, label approval, and formula applications, as well as tax filings, payments, and claims.”¹⁵

II. Advocacy Believes Additional Amendments Could Be Adopted to Further Reduce the Burden on Small Entities

As noted at the outset, Advocacy commends TTB for its years-long effort to streamline its regulatory requirements and reduce the regulatory burden on small entities in the wine industry covered by the proposed rule. Advocacy also commends TTB for recognizing that “the majority of businesses subject to this rule are small businesses.”¹⁶ In discussions with small businesses in the wine industry, the small businesses regularly noted to Advocacy that they appreciate TTB’s efforts to streamline their permitting rules and procedures, which includes the proposals set forth in this proposed rule.

¹⁰ *Id.* at 80,161.

¹¹ *Id.*

¹² *Id.* (citing 86 Fed. Reg. 68573 (Dec. 3, 2021)).

¹³ *Id.* (citing 87 Fed. Reg. 34819 (June 8, 2022)).

¹⁴ *Id.* at 80,161.

¹⁵ *Id.*

¹⁶ *Id.* at 80,167.

Based on these conversations, Advocacy believes that minor changes to the proposed rule will further reduce the impact on small businesses affected by the rule without compromising TTB's mission and goals in undertaking this rulemaking.

A. Extend Section 24.120 Notification Deadline to 90 Days

Advocacy recommends that TTB amend section 24.120 to allow wine premises up to 90 days instead of 60 days to notify TTB of any changes in the information included in an approved application to establish wine premises. Advocacy recognizes that the proposal to allow an extra 30 days to notify TTB of such changes is a welcome change that will greatly help small businesses comply with these notification requirements while also maintaining operations with minimal staff and resources. However, small businesses in the industry have informed Advocacy that extending the deadline up to 90 days for small entities would better ensure small businesses can weather difficult or unexpected operational changes while still ensuring TTB is notified within a reasonable time.

For example, many small businesses covered by this proposed rule are family owned and operated businesses. One study estimated that 95 percent of the roughly 10,000 wineries located in the United States are family operated.¹⁷ As such, an unexpected death in the family or other unexpected generational issues could mean that these families must simultaneously plan a funeral and handle the deceased estate while also maintaining operations and complying with TTB regulations. In such a scenario, an additional 30 days to notify TTB of significant changes would not only reduce regulatory costs and burdens, but also reduce familial stress when doing so is of the utmost importance. Alternatively, Advocacy recommends that TTB amend section 24.120 to allow small businesses to notify TTB that they have started the process within 60 days while still allowing an additional 30 days for completion.

B. Provide Further Clarity on How myTTB Will Work in Conjunction with the Proposed Rule

Advocacy recommends that TTB include in the final rule additional information and details on how the forthcoming online interface, myTTB, and the proposed rule will work. In addition, they need to ensure any changes small businesses make to their operations and practices to comply with the proposed rule will not need to be changed again when myTTB is launched. TTB explicitly recognizes in the NPRM that “with the use of myTTB and the implementation of these newly streamlined requirements within myTTB, the bureau anticipates significant improvements to a permit applicant’s user experience and corresponding reductions in burden.”¹⁸ However, the agency does not provide specifics about how the use of myTTB and the implementation of these new requirements will actually reduce regulatory burdens and makes no mention of specific myTTB functions that will streamline specific new requirements.

¹⁷ Liza B. Zimmerman, *The Challenges of Multi-Generational Family Wine Businesses*, FORBES (Oct. 15, 2018), <https://www.forbes.com/sites/lizazimmerman/2018/10/15/the-challenges-of-multi-generational-family-wine-businesses/>.

¹⁸ 89 Fed. Reg. at 80,161.

If the forthcoming myTTB online interface, for example, will have features that allow a business to notify TTB of changes under section 24.120, or if the agency is considering such functions, then that should be made clear in the rule so small businesses can plan accordingly. Otherwise, small businesses may be tasked with making multiple changes to their operations and practices multiple times in a few years simply because they were not made aware. Making operational changes often represents a significant cost to small businesses and TTB should endeavor to reduce that burden as much as possible. Enabling small businesses to prepare simultaneously for compliance with this rule and the rollout of myTTB would go a long way in reducing that cost.

Advocacy recommends that TTB provide guidance on how the forthcoming myTTB website will work in conjunction with the proposed amendments in the NPRM. This will allow small entities to make necessary adjustments to their operations and practices and comply with the NPRM in a way that will also work effectively with the myTTB portal. Doing so will ensure small entities do not have to adjust their operations and practices more than once or, at the very least, minimize any future adjustments.

C. TTB Should Provide Clear Guidance to Assist Small Entities with Compliance

Given the requirements of the proposed rulemaking, providing clear guidance for complying with the agency's rulemaking would prove quite helpful to small entities and help eliminate any potential confusion as to the proposed rule's requirements. As the agency acknowledged in the NPRM, small entities make up most businesses affected by the rulemaking and they often lack the resources of their larger competitors, which may hinder their ability to fully understand the new regulatory requirements and achieve full compliance. Advocacy therefore encourages TTB to provide clear guidance to assist small entities in complying with the requirements of the proposed rule.

III. Conclusion

Once again, Advocacy appreciates TTB's efforts to streamline its regulatory requirements and reduce the regulatory burden on small entities in the wine industry and in other alcohol-related industries. Advocacy recommends that TTB adopt the additional recommendations above, as these changes to the proposed rule would further reduce the impact on small businesses affected by the rule without compromising TTB's mission and goals in undertaking this rulemaking.

If you have any questions or require additional information, please contact me or Assistant Chief Counsel Graham Owens at (202) 205-6701 or by email at Graham.Owens@sba.gov.

Sincerely,

/s/

Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/
Graham Owens
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Office of Advocacy
U.S. Small Business Administration

Copy to: Richard L. Revesz, Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget