

§ 40.496 Trade name certificate.

Every person that files an application for a permit as a manufacturer of processed tobacco operating under a trade name must furnish with the application for the permit required by § 40.492 a true copy of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required, a written statement, in duplicate, to that effect by such person will be sufficient for the purpose of this section.

EFFECTIVE DATE NOTE: By T.D. TTB-80, at 74 FR 37552, July 29, 2009, § 40.496 was amended in the first sentence by after the words “manufacturer of processed tobacco”, adding the words “operating under a trade name”, effective July 29, 2009 through June 22, 2012.

§ 40.497 Additional information.

The appropriate TTB officer may require such additional information as deemed necessary to determine whether the applicant is entitled to a permit under this subpart. The applicant shall, when required by the appropriate TTB officer, furnish as a part of the application for the permit such additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to a permit.

§ 40.498 Investigation of applicant.

Appropriate TTB officers may inquire or investigate to verify the information in connection with an application for a permit. The investigation will ascertain whether the applicant is eligible for a permit. A permit may be denied if the applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(a) Is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter;

(b) Has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or

(c) Has failed to disclose any material information required or made any material false statement in the application therefor.

§ 40.499 Notice of contemplated disapproval.

If the appropriate TTB officer has reason to believe that the applicant is not entitled to a permit, the appropriate TTB officer will promptly give to the applicant notice of the contemplated disapproval of the application and opportunity for hearing thereon in accordance with part 71 of this chapter. If, after such notice and opportunity for hearing, the appropriate TTB officer finds that the applicant is not entitled to a permit, an order will be prepared stating the findings on which the permit request is denied.

§ 40.500 Issuance of permit.

If the application for permit, together with the supporting documents, required under this part is approved, the appropriate TTB officer will issue a permit on TTB F 5200.28 to the applicant as a manufacturer of processed tobacco.

§ 40.501 Retention of permit and supporting documents.

The manufacturer must retain the permit, together with the copy of the application and supporting documents returned with the permit, at the same place where the records required by this subpart are kept. The permit and supporting documents must be made available for inspection by any appropriate TTB officer upon request.

CHANGES AFTER QUALIFICATION

§ 40.511 Change in name.

(a) *Change in individual name.* When there is a change in the name of an individual operating under a permit as a manufacturer of processed tobacco, the manufacturer must, within 30 days of such change, make application on TTB F 5200.16 for an amended permit.

(b) *Change in trade name.* When there is a change in a trade name used by a manufacturer of processed tobacco in connection with operations authorized by the permit, the manufacturer must, within 30 days of such change, make application on TTB F 5200.16 for an amended permit to reflect such change. This requirement also applies to the addition or discontinuance of a trade name. The manufacturer must also furnish a true copy of any new trade name certificate or document issued to the manufacturer, or statement in lieu thereof, required by § 40.496.

(c) *Change in corporate name.* When there is a change in the corporate name of a manufacturer of processed tobacco, the manufacturer must, within 30 days of such change, make application on TTB F 5200.16 for an amended permit. The manufacturer must also furnish such documents as may be necessary to establish that the corporate name has been changed.

§ 40.512 Change in ownership or control.

(a) *Fiduciary successor.* If an administrator, executor, receiver, trustee, assignee, or other fiduciary is to take over the business of a manufacturer of processed tobacco as a continuing operation, such fiduciary shall, before commencing operations, make application for a permit in accordance with this subpart, furnish certified copies, in duplicate, of the order of the court, or other pertinent documents, showing his appointment and qualification as such fiduciary, and make a commencing inventory in accordance with § 40.523. However, where a fiduciary intends only to liquidate the business, qualification as a manufacturer of processed tobacco will not be required if such fiduciary promptly files with the appropriate TTB officer a written statement to that effect, in duplicate.

(b) *Transfer of ownership.* If a transfer in ownership of the business of a manufacturer of processed tobacco (including a change of any member of a partnership or association) is to be made, such manufacturer shall give notice, in writing, to the appropriate TTB officer, naming the proposed successor and the desired effective date of the transfer. The proposed successor shall, before

commencing operations, qualify as a manufacturer of processed tobacco in accordance with this subpart. The manufacturer shall give notice of the transfer, and the proposed successor shall make application for permit, in ample time for examination and approval thereof before the desired date of such change. The predecessor shall make a concluding inventory and concluding report, in accordance with §§ 40.523 and 40.522, respectively, and surrender the permit with such inventory and report. The successor shall make a commencing inventory and first report, in accordance with §§ 40.523 and 40.522, respectively.

(c) *Change in officers, directors, or stockholders of a corporation.* Upon election or appointment (excluding successive reelection or reappointment) of any officer or director of a corporation operating the business of a manufacturer of processed tobacco, or upon any occurrence that results in a person acquiring ownership or control of more than ten percent in aggregate of the outstanding stock of such corporation, the manufacturer shall, within 30 days of such action, so notify the appropriate TTB officer in writing, giving the identity of such person. When there is any change in the authority furnished under § 40.494 for officers to act in behalf of the corporation, the manufacturer shall immediately so notify the appropriate TTB officer in writing.

(d) *Change in control of corporation.* When the issuance, sale, or transfer of the stock of a corporation operating as a manufacturer of processed tobacco results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate manufacturer shall, within 30 days after the change occurs, make application on TTB F 5200.3 for a new permit. Otherwise, the present permit shall be automatically terminated at the expiration of such 30-day period, and the manufacturer shall dispose of all processed tobacco on hand, make a concluding inventory and concluding report, in accordance with the provisions of §§ 40.523 and 40.522, respectively, and surrender the permit with such inventory and report. If the application for a new permit is timely made,