

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number - 1513-0007

TTB F 5130.9 - Brewer's Report of Operations  
TTB F 5130.26 - Quarterly Brewer's Report of Operations

**A. Justification**

**1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.**

*Abstract*

This information collection is necessary for the Alcohol and Tobacco Tax and Trade Bureau (TTB) to determine whether a brewer's operations are lawful and in compliance with the requirements of law and regulations, and also that the appropriate amount of tax is being paid timely. The Internal Revenue Code (IRC) at 26 U.S.C. 5415 requires "every brewer to make true and accurate returns of his operation and transactions in the form, at the times, and for such periods as the Secretary shall by regulations prescribe." TTB regulation § 25.297 requires brewers to file a Brewer's Report of Operations, Form 5130.9 or Form 5130.26 (which is an "EZ" version), either monthly or quarterly. Brewers that were liable for not more than \$50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the preceding calendar year and reasonably expect to be liable for not more than \$50,000 in such taxes during the current calendar year (see § 25.297(b)) must file quarterly and may use either version of the form. Brewers ineligible to file quarterly must file monthly using TTB F 5130.9 only.

Both versions of this report (TTB F 5130.9 and 5130.26) require information about brewery operations and summarize the quantities of beer and cereal beverage the brewer has on hand, produced and removed, or otherwise disposed of during the reporting period. We examine these reports for completeness and accuracy and compare the information against other documentation that the brewer submits to TTB regarding exports, tax payments, transfers between breweries, and other authorized activities. These examinations provide early evidence of unauthorized, unexplained, or discrepant activity that may present jeopardy to the revenue. We may then conduct

audits or inspections to investigate the potential for additional taxes, penalties, and interest due to the United States.

This information collection is aligned with:

Treasury Strategic Goal: Effective Manage of U.S. Government Finances.

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

## **2. How, by whom and for what purpose is this information used?**

We examine the information in these forms to:

- Ensure that we have sufficient details concerning business operations to judge continued qualification for operations;
- Ensure that the business and operations are allowed under law and regulations;
- Ensure that proper amount of tax is paid timely; and
- Ensure that the brewer has an accurate method to determine the amount of tax due

## **3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?**

These forms are available to submit electronically through Pay.gov. TTB has approved and will continue to approve, on a case-by-case basis, the use of improved technology for the reporting of this information.

## **4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?**

The forms contain information collected that is pertinent to each respondent and applicable to the specific issue of filing a brewer's or brewpub report of operations. As far as we can determine, similar information is not available elsewhere.

## **5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?**

We consider this reporting requirement to be the minimum necessary to ensure compliance with existing law and regulations. Where possible, we will reduce requirements to ensure compliance with existing law and regulations and to reduce reporting burdens for all brewers.

**6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?**

Without the information on this report, we could not protect revenue unless we diverted significant resources from other program areas to conduct much more frequent inspections and audits at all of the 3,300 brewers. It is doubtful that sufficient resources would be available to accomplish such audit activity.

**7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?**

There are no special circumstances associated with this information collection.

**8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.**

TTB published period in the Federal Register (77 FR 67442) a general information collection notice with a 60-day comment and also published an announcement on the TTB website at [www.TTB.gov](http://www.TTB.gov) detailing the initial proposed revisions to the forms and requesting comments. In response to the 60-day notice, TTB received a total of 4 comments, all generally in favor of the proposed changes. Two commenters requested further changes. One requested that TTB extend the allowance for quarterly report to a wider universe of brewers. TTB included discussion of this request in a later notice of proposed rulemaking (TTB Notice No. 131) described below. The other commenter requesting further changes asked that TTB modify the title to one version of the forms and clarify an item in the instructions. TTB made both changes.

In a subsequent notice of proposed rulemaking (77 FR 72999), TTB Notice No. 131, published December 7, 2012, TTB requested comments related to a temporary rule published concurrently (T.D. TTB-109) and also proposed the changes to the filing frequency for brewers that are described above in item 1, that is, that certain small brewers would be required to submit operational reports quarterly. Under then-existing regulations, such brewers could choose to file quarterly or monthly. TTB received 44 comments in response to that notice. Twenty five of those comments were specific to the proposal to mandate quarterly filing of the operational reports for certain small brewers. All of the comments were in favor of the proposed changes, many submitting cost savings estimates they expected to result from this rule. One commenter stated that, while they supported the proposed quarterly filing mandate, they preferred to file monthly.

**9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?**

No decision of payment or gift is associated with this collection.

**10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?**

We maintain these records in secure file rooms and computer systems with controlled access. This information is subject to protection under 5 U.S.C. 552 and 26 U.S.C. 6103.

**11. What justification is there for questions of a sensitive nature?**

No questions of a sensitive nature are asked.

**12. What is the estimated hour burden of this collection of information?**

There are 3,300 respondents (180 filing monthly and 3,120 filing quarterly) and an estimated 14,640 responses:

	TTB F 5130.9		TTB F 5130.26	
Number of respondents	180		3,120	= 3,300
Number of responses	12		4	
Total annual responses	2,160		12,480	
Hours per response	<u>1</u>		<u>1</u>	
Total annual hours	2,160	+	12,480	= 14,640

We estimate that it takes brewers 1 hour to complete either version of the report of operations form (TTB F 5130.9 or TTB F 5130.26). The total annual burden hours are 14,640.

**13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above)?**

There is no cost associated with this collection.

**14. What is the annualized cost to the Federal government?**

Estimate of annual cost to the Federal government is as follows:

Costs for the brewer's and brewpub reports of operations, are as follows:

Printing	\$ 400
Distribution	200
Clerical costs	200
Other salary (review, supervisory)	<u>1,000</u>
Total	\$1,800

**15. What is the reason for any program changes or adjustments?**

TTB has made an adjustment and program changes associated with this collection. The adjustment is due to the dramatic increase in the number of brewers, from 2,026, as reported in the last renewal request for this collection, to the current total of 3,300.

One program change is that we modified both forms by eliminating two sections of information that we determined to be no longer necessary for the brewer to report, and by adding additional instructions to reduce the forms' complexity. In addition, we modified TTB F 5130.26 to make it an "EZ" option for small entities eligible to file quarterly.

The second program change is a recent amendment to TTB regulations. Brewers that were liable for not more than \$50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the preceding calendar year and reasonably expect to be liable for not more than \$50,000 in such taxes during the current calendar year are now required to file quarterly (see § 25.297(b)). Prior to this new requirement, such brewers had the option to file their report of operations either monthly on TTB F 5130.9 or quarterly on TTB F 5130.26. The new requirement that small brewers file quarterly will significantly reduce the annual burden hour estimate from 12 hours to four for more than 90 percent of the total amount of brewers.

**16. Outline plans for tabulation and publication for collections of information whose results will be published.**

We summarize the information in reports that group the information by period and by State (or groups of States where a summary might disclose a particular brewer's activity or where privacy concerns mitigate against disclosure).

**17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?**

We will display the expiration date of OMB approval for this collection.

**18. What are the exceptions to the certification statement?**

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.

- (i) No statistics are involved.

**B. Collection of Information Employing Statistical Methods**

This collection of information does not use statistical methods.