

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-NEW

Information Collection Request Title: PATH Act Bond Requirement Statements for PONL.

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Public Law 114-113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 332 of the PATH Act amends the IRC to change tax return due dates and remove bond requirements for certain taxpayers with respect to the taxes on distilled spirits, wine, and beer. Under the new law, certain taxpayers will be exempt from bond requirements if they reasonably expect to be liable for not more than \$50,000 in taxes for the calendar year and if they were liable for not more than \$50,000 in taxes in the preceding calendar year.

The PATH Act amendments to the IRC apply beginning on January 1, 2017, and TTB is drafting regulations to implement the new law. While preparing the new regulations, TTB determined that it is necessary to immediately amend the electronic Permits Online (PONL) versions of the Brewer's Notice form (TTB F 5130.10), the Application to Establish and Operate Wine Premises (TTB F 5120.25), and the Distilled Spirits Plant Registration form (TTB F 5110.41) to allow new applicants who submit these PONL forms before 2017 to indicate that they will be exempt from the bond requirements contained in 27 CFR 19.151 (for distilled spirits plant applicants), 27 CFR 24.146 (for wine premises applicants), or 27 CFR 25.91 (for brewers) once the new law goes into effect.

TTB cannot independently determine whether a taxpayer is exempt from these bond requirements because it depends, in part, on the taxpayer's expectation for the coming year. Therefore, in the case of applicants who apply before 2017 but whose application is still in process on January 1, 2017, TTB will use this information to streamline the application process so that applicants who indicate that they are eligible for the bond exemption do not need to take additional action in order to obtain authorization to operate without a bond

beginning in 2017. If TTB did not solicit this information in PONL before the PATH Act goes into effect, such applicants would have to withdraw their existing applications and submit new ones, or take additional actions to become exempt from bond requirements.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Permits Online System.

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

TTB will use this information to streamline the permit application process so that applicants who indicate that they are eligible for the bond exemption authorized by the PATH Act do not need to take additional action in order to obtain authorization to operate without a bond beginning in 2017. If TTB did not solicit this information in PONL before the PATH Act goes into effect, such applicants would have to withdraw their existing applications and submit new ones, or take additional actions to become exempt from bond requirements.

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?

This information collection, consisting of one check box question regarding bond requirements, will be added to TTB's existing web-based Permits Online system, which allows applicants to electronically submit applications to TTB for distilled spirit plant and wine premises operating permits and to file brewers notices. All responses will, therefore, be provided electronically. (TTB is electing not to temporarily revise the paper permit application forms since almost all permit applications are now filed electronically via PONL. The paper forms will be revised as part of the PATH Act-related rulemaking process that we will undertake to amend our bond requirement regulations.)

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

The bond requirement question will collect information regarding IRC bond requirements that is unique to each respondent, and similar information is not available to TTB elsewhere.

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

All applicants for distilled spirits plant and wine premises permits and brewers notice filers, regardless of size, are required by the PAT Act amendments to the IRC to determine their need for a bond. The information required by this information collection is minimal and cannot be waived or reduced simply because the respondent's business is small. (The PATH Act amendments to the IRC remove the bond requirement will benefit small entities with respect to the taxes on distilled spirits, wine, and beer. Under the new law, certain taxpayers will be exempt from bond requirements if they reasonably expect to be liable for

not more than \$50,000 in taxes for the calendar year and if they were liable for not more than \$50,000 in taxes in the preceding calendar year.)

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?*

If TTB did not solicit this information in PONL before the PATH Act goes into effect, such applicants would have to withdraw their existing applications and submit new ones, or take additional actions to become exempt from bond requirements. Respondents respond only once to this information collection during the application process, and, as such, this collection cannot be conducted less frequently.

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?*

No special circumstances are 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.*

Because TTB did not anticipate the need for this change at the time the law was enacted and because this change is necessary to relieve unnecessary regulatory burden on certain new applicants, TTB is requesting expedited/emergency approval of this information collection separately from the existing OMB approvals for the PONL forms in order to solicit this information for a temporary period of time until the implementing regulations and related permanent changes to the PONL forms go into effect. Because this change simply requires applicants to check a box on the form regarding whether they meet the statutory criteria for the bond exemption, TTB does not believe that this additional, temporary change to the three PONL forms is unduly burdensome.

TTB will solicit public comment on the permanent addition of the bond requirement question to the PONL applications for distilled spirits plants, wine premises, and breweries (respectively approved under 1513-0041, 1513-0009, and 1513-0005) as part of the rulemaking process for the PATH Act-based amendments to the TTB regulations.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

No 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?*

No specific assurance of confidentiality is provided for this collection. However, Federal law at 26 U.S.C. 6103 prohibits disclosure of tax related information unless disclosure is

specifically authorized by that section. TTB maintains PONL applications in password-protected computer systems, which are located in secure office space.

11. What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.

This information collection contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

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

Based on recent experience, TTB estimates that no more than 2,000 PONL applications will be received during the period October 1 through December 31, 2016. Each respondent will only respond to this information collection once, and TTB estimates that a respondent will require no more than 6 minutes to determine if their anticipated alcohol excise tax liability for the coming year in order will under or over \$50,000 in order to respond to the bond requirement check box question being added to PONL for this information collection. Therefore, the estimated annual burden for this information collection is 200 hours.

(2,000 respondents x 1 response x 6 minutes per response = 200 annual burden hours.)

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

We do not believe respondents bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement.

14. What is the annualized cost to the Federal Government?

There is no annualized cost to the Federal Government associated with this information collection. Costs to the government associated with changes to the PONL system are minimal and are covered by the current PONL operational budget.

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

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

TTB will not publish the results of this collection.

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?

TTB is seeking approval not to display the expiration date for OMB approval of this information collection in its PONL system. This information collection is intended to be temporary until TTB completes rulemaking regarding the PATH Act amendments to the IRC bond requirements for alcohol beverage producers, which will include permanent changes to the approved information collections currently associated with PONL. By not displaying the OMB expiration date for this collection, we believe that we can avoid respondent confusion regarding the pending permanence of the PATH Act amendments regarding bond requirements for alcohol producers.

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. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.