

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement – Information Collection Request
OMB Control Number 1513–0015

Information Collection Request Title:

Brewer's Bond and Brewer's Bond Continuation Certificate/Brewer's Collateral Bond and Brewer's Collateral Bond Continuation Certificate

Information Collections Issued under this Title:

- TTB F 5130.22 – Brewer's Bond
- TTB F 5130.23 – Brewer's Bond Continuation Certificate
- TTB F 5130.25 – Brewer's Collateral Bond
- TTB F 5130.27 – Brewer's Collateral Bond Continuation Certificate

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. This law includes amendments to the IRC at 26 U.S.C. 5061(d)(4) (providing for a new annual tax return period) and 26 U.S.C. 5551(d) (providing for a new exemption from bond requirements). This law has an effective date of January 1, 2017.

Subject to the exemption in IRC at 26 U.S.C. 5551(d), the IRC at 26 U.S.C. 5401(b) requires brewers to give a bond to ensure compliance with the requirements of law and

regulations and to protect the revenue. Under the IRC at 26 U.S.C. 5551(d), as amended by the PATH Act, certain brewers are exempt from bond requirements if they are eligible to pay excise taxes quarterly or annually under the IRC at 26 U.S.C. 5061(d)(4). The Brewer's Bond (TTB F 5130.22) is a contract between the brewer and an authorized surety company to provide such a bond. Brewers are also allowed to furnish certain United States securities or cash (or cash equivalent) as collateral instead of a surety bond. The Brewer's Collateral Bond (TTB F 5130.25) is a form to facilitate this transaction.

Under the IRC at 26 U.S.C. 5401(b), brewers' bonds expire every four years. Instead of filing a new bond, a brewer may furnish a continuation certificate to extend the term of the bond. The existing Brewer's Bond Continuation Certificate (TTB F 5130.23) and the Brewer's Collateral Bond Continuation Certificate (TTB Form 5130.27) provide for these transactions.

Unless they are exempt from bond requirements, brewers must keep their current bonds for as long as the brewery is in operation.

Brewer's Bond (TTB F 5130.22)

Under the IRC at 26 U.S.C. 5401, brewers must furnish qualifying documents to TTB before they start business. This includes the execution of the Brewer's Bond (TTB F 5130.22) to the United States in an amount sufficient to safeguard the tax revenue from beer. Section 25.93 of the TTB regulations (27 CFR 25.93) establishes the bond amount for surety bonds, and 27 CFR 25.91 requires a bond be executed under certain circumstances before starting business.

Brewer's Bond Continuation Certificate (TTB F 5130.23)

The IRC at 26 U.S.C. 5401(b) requires renewal of the Brewer's Bond every four years in order for a brewer to remain qualified to operate. In lieu of executing a new bond, section 5401 and 27 CFR 25.97 permit a brewer to furnish a Brewer's Bond Continuation Certificate (TTB F 5130.23) in order to continue the contract between the brewer and surety company for four years.

Brewer's Collateral Bond (TTB F 5130.25)

The IRC at 26 U.S.C. 7101 permits a brewer to submit United States Treasury securities or notes instead of obtaining bond coverage from a surety. TTB also accepts cash (or cash equivalent) as a collateral bond using this form.

Brewer's Collateral Bond Continuation Certificate (TTB F 5130.27)

The IRC at 26 U.S.C. 5401(b) requires renewal of a brewer's collateral bond every four years, and section 5401 and 27 CFR 25.97 permit a brewer to furnish a bond continuation certificate. The brewer uses TTB F 5130.27 in order to continue the collateral bond for four years.

In addition to the regulations discussed above, the following regulations require the submission of a bond and are covered under this information collection:

§ 25.73	Change in partnership;	§ 25.95	Superseding bonds and new bonds for existing proprietors;
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§ 25.274 Bond.

This information collection is aligned with:

Treasury Strategic Goal: Effective Manage US 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?

The information collected on these forms is reviewed by TTB to ensure that each brewer subject to bond requirements has a bond that meets statutory and regulatory requirements prior to commencing operations and that each brewer continues to meet the bonding 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?

All four forms may be completed using our Permits Online (PONL) system. We have approved and will continue to approve, on a case-by-case basis, the use of improved information technology for those brewers that can submit electronically, as well as consider the same for other brewers.

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 forms contain information collected that is pertinent to each respondent and applicable to the specific issue of filing a bond or continuation certificate. 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?

Subject to the exemption in the IRC at 26 U.S.C. 5551(d), the IRC 26 U.S.C. 5401(b) requires all brewers to obtain a bond or continuation certificate every four years. Except where the brewer meets the criteria for the bond exemption, this information collection requirement cannot be waived simply because the brewer is a small business.

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?

Approval of the bond or continuation certificate, when required, allows TTB to prevent individuals or companies convicted of illegal production, sale, or distribution, or of evading taxes on alcoholic beverages, from entering or continuing in the brewing

business. The ability to prevent such persons from entering or continuing the brewing business provides greater security to Federal tax revenues.

If the bond exemption does not apply, failure to obtain the bond or to renew/continue the bond within 4 years would violate federal law.

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.*

The general public will be notified of this information collection in a temporary rule and notice of proposed rulemaking that will be published shortly in the Federal Register. The notice will solicit comments from the general public.

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 on TTB F 5130.10. However, 5 U.S.C. 552 protects proprietary information from disclosure, while 26 U.S.C. 6103 protects taxpayer information from disclosure.

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.

A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

TTB has 1,341 active breweries that file one of the four forms once every four years. We have attached an Excel spreadsheet to numerically reinforce the following explanation for the burden-hour calculation:

1,341 brewers will file these forms every 4 years, and they will file each of the four forms equally. We expect that of the estimated 316 new brewers that will file an original application per year, half will file TTB F 5130.22 and the other half will file TTB F 5130.25. TTB F 5130.22 and 5130.25 can be filed electronically through PONL, and are filed 88% of the time electronically for new applicants (139 annually). We estimate that two-thirds of continuation certificates (TTB F 5130.23 and 5130.27) are filed through PONL. We estimate each form requires 45 minutes to complete when filed on paper, and 30 minutes when filed electronically. The estimated total number of responses is 652 and burden is 363.5 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)?*

The total annual cost estimate associated with this paperwork requirement is allocated entirely to operations and maintenance. Annual costs are allocated as follows.

Wages	preparation 990 hours @ \$20	=	\$19,800.00
Postage	1,524 Forms @ \$0.61	=	<u>929.64</u>
	Total		\$ 20,729.64

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

We estimate costs to the Federal government for TTB F 5130.22, 5130.23, 5130.25, and 5130.27 are as follows:

Printing and Distribution	\$ 150
Clerical	50
Costs	110
Other salary (review, supervisory)	<u>320</u>
Total	\$ 630

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

TTB is making program changes associated with this information collection to implement the bond exemption under the PATH Act. TTB is amending its regulations to reference the bond exemption under the IRC at 26 U.S.C. 5551(d).

As for adjustments, the number of brewers regulated by TTB has increased to 6,298. However, under the new bond exemption, TTB estimates that only 1341 brewers will be required to file the forms.

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?

As a cost-saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on these forms. By not displaying the expiration date of this collection on the related forms, TTB will not have to update the forms' expiration dates on its electronic systems and website pages or on the forms' paper versions each time the information collection is approved. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any marginally punched continuous printed versions of the forms produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on these forms will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the forms could continue in use regardless of when OMB's approval has expired.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a TTB recordkeeping requirement collection.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collection of Information Employing Statistical Methods

This collection of information does not use statistical methods.