

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0058

Information Collection Request Title:

Usual and Customary Business Records Maintained by Brewers (TTB REC 5130/1).

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.

Under the IRC at 26 U.S.C. 5051, a Federal excise tax of \$18.00 per 31-gallon barrel is imposed on beer removed for consumption or sale within the United States, or, for certain small brewers, a Federal excise tax of \$7.00 per barrel is imposed.

To protect the revenue generated by this tax, the IRC contains specific provisions requiring breweries to keep certain records. The IRC at 26 U.S.C. 5415 requires that brewers keep records in such form and containing such information as the Secretary of the Treasury (Secretary) may prescribe by regulation. That section also provides that brewers must preserve such records for the time period as the Secretary shall prescribe by regulation and that the brewer must make the required records available during business hours for examination by internal revenue officers. The IRC at 26 U.S.C. 5555 authorizes the Secretary to prescribe regulations requiring any person liable for taxes on alcohol beverages, including beer, to prepare any records, statements, or returns as necessary to protect the revenue.

Under these IRC provisions, various TTB regulations in 27 CFR Part 25, Beer, require brewers to keep certain usual and customary business records documenting their operations, including invoices, inventories, and records related to production, packaging, removals and returns, storage, shipping, and transfers. TTB believes that brewers could not operate a business without maintaining these usual and customary records that document the purchase and use of materials and ingredients, as well as the production of, and the resulting tax liability for, beer.

The following TTB regulations in 27 CFR Part 25, Beer, detail the specific records that brewers must maintain under this information collection approval regarding their brewing business:

- § 25.42, Testing of measuring devices.
- § 25.142, Bottles.
- § 25.186, Record of beer transferred.
- § 25.192, Removal of sour or damaged beer.
- § 25.195, Removals for analysis.
- § 25.196, Removals for research, development or testing.
- § 25.211, Beer returned to brewery.
- § 25.252, Records.
- § 25.264, Transfer between breweries.
- § 25.276, Operations and records.
- § 25.291, Records.
- § 25.292, Daily records of operations.
- § 25.293, Record of ballings and alcohol content.
- § 25.294, Inventories.
- § 25.295, Record of unsalable beer.
- § 25.296, Record of beer concentrate.

In addition, § 25.300, Retention and preservation of records, and § 25.301, Photographic copies of records, govern how long the required records must be maintained and in what form the records may be kept.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

The records required by 27 CFR part 25 under this information collection approval are maintained by brewers at their business premises and are routinely inspected by TTB personnel during audits and field inspections. TTB personnel use the required records to, among other things, verify the quantities of raw materials received at a brewery, the quantity of beer and cereal beverages produced and removed from a brewery taxpaid or without payment of tax, and the appropriate rate of tax to which the beer is subject upon removal from the brewery.

The inspection of these records by TTB protects the revenue by ensuring payment of the appropriate amount of Federal excise tax, and also ensures that beer is produced, packaged, stored, shipped, and transferred in accordance with the relevant Federal laws and regulations.

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 records are maintained by brewers at their business premises and may be kept in paper or electronic formats at their discretion. Where TTB regulations require records to be kept in a particular format, TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the collection and maintenance of required information.

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?

This information collection request requires the keeping of usual and customary brewery records that are pertinent to each recordkeeper. 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 the recordkeeping requirements approved under this information collection to be the minimum necessary to protect the revenue and ensure compliance with TTB administered laws and regulations. Waiver or reduction of these recordkeeping requirements, simply because the respondent's business is small, could jeopardize the revenue as TTB would be unable to verify Federal excise tax returns and claims. TTB notes that a small brewer will have fewer and smaller transactions than a large brewery, and, as such, their recordkeeping activity will be commensurately less.

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?

In the absence of this information collection or less frequent collection of this information, TTB could not accurately verify a brewer's Federal excise tax liability and claims, which would pose jeopardy to the revenue. TTB also could not accurately determine a brewer's compliance with the IRC provisions and TTB regulations related to beer production and removals.

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.

To solicit comments from the general public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on October 27, 2016, beginning at 81 FR 74866. TTB received no comments on this information collection in response.

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 information collection, which consists of records maintained by regulated industry members at their business premises.

However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by the IRC.

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, which consists of records maintained by industry members at their business premises, contains no questions of a sensitive nature. Also, because this information collection consists of records maintained by industry members at their business premises, this recordkeeping requirement does not collect personally identifiable information (PII) in a government 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?

This information collection involves usual and customary business records that would be kept by brewers at their business premises even without the TTB regulatory requirements to keep such records. Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden for all 7,190 current brewers required to keep these usual and customary business records is estimated to be one hour (represents a place holder not an actual estimate of burden).

Record retention: 27 CFR 25.300 requires brewer's to retain the required records for three years. This section further authorizes the appropriate TTB officer to require that brewers keep these records for up to an additional three years if the records are necessary for conducting a current examination or investigation.

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)?

This information collection consists of usual and customary business records that brewers keep at their premises as a normal part of doing business. Therefore, there is no cost to respondents associated with this collection.

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

There is no cost to the Federal Government for the maintenance of usual and customary business records by proprietors at their business premises.

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

There are no program changes associated with this information collection.

As for adjustments, TTB is increasing the estimated number of respondents due to an increase in the number of brewers regulated by TTB. There is no increase in the estimated total annual burden hours for this information collection because the required records are usual and customary records kept by brewers during the normal course of business and would be maintained even without the TTB regulatory requirements to do so.

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?

This information collection consists of usual and customary business records that brewers keep at their business premises as a normal part of doing business. As such, there is no prescribed TTB form for this collection, and, therefore, there is no medium for TTB to display the OMB approval expiration date.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.