

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.

Under the IRC at 26 U.S.C. 5051, a Federal excise tax is imposed on all beer made or imported, and removed for consumption or sale, within the United States. To protect this revenue, the IRC at 26 U.S.C. 5401(b) requires brewers, before commencing business, to “execute a bond to the United States” in the amount the Secretary prescribes by regulation. In addition, under 26 U.S.C. 5401(b), brewers' bonds expire every four years and a brewer is, therefore, required to provide a new bond or a “continuation certificate” extending the terms of an existing bond. As such, a brewer is required to keep their bond current for as long as the brewery is in operation.

However, under the IRC at 26 U.S.C. 5551(d), brewers who are eligible to pay excise taxes annually or quarterly under the provisions of 26 U.S.C. 5061(d)(4) are exempt from the requirement to provide a bond.¹

In addition, the IRC at 26 U.S.C. 7101 requires that persons required to submit bonds do so in conformity with regulations issued by the Secretary. This IRC section also allows such persons to submit United States Treasury securities or notes as a collateral bond in lieu of a bond from a surety.

Under the authority of the IRC at 26 U.S.C. 5401(b) and 7101, TTB has issued regulations regarding brewer's bonds, which are contained in 27 CFR Part 25, Beer. Specifically, 27 CFR 25.91 requires a brewer, unless otherwise exempted, to execute a bond before beginning business, § 25.93 sets the penal sum of the required bond, § 25.94 concerns strengthening bonds, and § 25.95 concerns superseding or new bonds for existing brewers. In addition, § 25.73(c) requires a new bond in certain cases of changes in partnership, § 25.77 requires a new bond, consent of surety (see 1513–0013), or a bond continuation certificate if a brewer changes location, and § 25.274 requires a bond for a pilot brewery.

Under 27 CFR 25.98, a brewer's bond may be a surety bond, which is a bond guaranteed by an approved surety company,² or it may be a collateral bond, which is a bond guaranteed by United States Treasury securities (bond or notes) or by cash or cash equivalent (check or money order). To file a surety bond, a brewer uses form TTB F 5130.22, Brewer's Bond. To file a collateral bond, a brewer uses form TTB F 5130.25, Brewer's Collateral Bond.

As noted, under 26 U.S.C. 5401(b), brewer's bonds expire every four years. Under § 25.97, when a brewer's bond is set to expire, the brewer may file a continuation certificate attesting to the continuation of their existing bond by the surety or to the brewer's continued deposit of collateral. To continue a surety bond, a brewer files TTB F 5130.23, Brewer's Bond Continuation Certificate, and, to continue a collateral bond, a brewer files TTB F 5130.27, Brewer's Collateral Bond Continuation Certificate.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application Systems.

¹ Effective January 1, 2017, section 332 of the Protecting Americans from Tax Hikes Act (PATH Act; Division Q of Public Law 114–113) amended the IRC at 26 U.S.C. 5061(d)(4) to add, in addition to the existing quarterly tax return period, a new annual tax return period for certain small alcohol excise taxpayers. Section 332 of the PATH Act also amended the IRC at 26 U.S.C. 5551 to add, in paragraph (d), an exemption to bond requirements for alcohol beverage producers who are eligible to file excise taxes on an annual or quarterly basis. Under 26 U.S.C. 5061(d)(4), as amended, to use annual filing, a taxpayer must reasonably expect to be liable for not more than \$1,000 in excise taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year, and, to use quarterly filing, a taxpayer must reasonably expect to be liable for not more than \$50,000 in excise taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year. TTB reported this statutory amendment as a program change to this information collection in its last OMB approval request for this collection.

² The Secretary of the Treasury publishes an annual list of approved surety companies for Federal bonds; see Department of the Treasury Circular 570, published in the Federal Register on the first business day in July.

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

TTB reviews the information collected on the forms approved under this collection requirement to ensure that each brewer subject to the IRC's bond requirements has a bond that meets statutory and regulatory requirements prior to commencing operations, and that each brewer continues to meet the IRC's 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?*

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 records.

Currently, respondents may file information collected on the brewer's bond forms electronically using the Original/Amended Brewery, Microbrewery, or Brewpub Application contained in TTB's Permits Online (PONL) system; see the TTB website at <https://www.ttbonline.gov/permitsonline>. A PONL Tutorial and a PONL Customer User Guide are available on the TTB website at, respectively, https://www.ttb.gov/ponl/permits_online-tutorials.shtml and <https://www.ttb.gov/ponl/customer-reference-manual-permits-online-0515.pdf>.

In addition, TTB F 5130.22, TTB F 510.23, TTB F 5130.25, and TTB F 5130.27 also are available as a fillable/printable paper forms on the TTB website at <https://www.ttb.gov/forms/5000.shtml>.

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 four forms approved under this collection request contain information 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?*

The IRC at 26 U.S.C. 5401(b) requires all brewers to provide a bond or continuation certificate every four years. However, under the IRC at 26 U.S.C. 5551(d), brewers who are eligible to pay excise taxes annually or quarterly under the provisions of 26 U.S.C. 5061(d)(4) are exempt from the requirement to provide a bond. To use annual filing, a brewer must reasonably expect to be liable for not more than \$1,000 in excise taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year, and, to use quarterly filing, a taxpayer must reasonably

expect to be liable for not more than \$50,000 in excise taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year. TTB believes that this statutory provision exempts almost all small brewers from the bond requirement, and, thus, TTB believes that this information collection requirement has no significant impact on a substantial number of small entities.

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?

The obligation to provide a brewer's bond every four years is mandatory by statute at 26 U.S.C. 5401(b), unless the brewer is exempt from doing so under 26 U.S.C. 5551(d). As such, if this collection were not conducted or conducted less frequently, brewers required to provide a bond would not be able to meet the statutory and regulatory requirements to do so, and TTB would not be able to verify that brewers have adequate bond coverage to protect the revenue.

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 June 9, 2017, at 82 FR 26837. 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 the four forms contained under this collection request. However, each form contains a Privacy Act Statement that explains TTB's use of the requested information and to what entities, and for what purposes, TTB may disclose the information. In addition, 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 taxpayer-related information unless disclosure is specifically authorized by

that section. TTB maintains the collected information in secure office space with controlled access and in password-protected computer systems.

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?*

Based on data provided by TTB’s National Revenue Center, TTB estimates that, annually, 652 existing and new brewers will be required to file a brewer’s bond. Of that number, TTB estimates that 242 brewers will each file one surety bond on TTB F 5130.22 and 242 brewers will each file one collateral bond on TTB F 5130.25. In addition, for existing brewers, 84 will each file one surety bond continuation certificates on TTB F 5130.23 and 84 will each file one collateral bond continuation certificates on TTB F 5130.27. The estimated burden hours for this information collect request are as follows:

Form	Total Annual Respondent/ Responses	Hours Per Response	Burden Hours	Total Burden
F 5130.22	242	0.6116		148
F 5130.23	84	0.75		63
F 5130.25	242	0.6116		148
F 5130.27	84	0.75		63
TOTALS	652	(0.64724)		422

In sum, on an annual basis, the total number of respondents to this information collection request is 652, each making one response, for a total of 652 responses, at an average burden of 0.64724 hours per response, for a total estimated burden of 422 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, and is estimated to be \$19,800.00 (approximately \$14.77 per respondent).

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

We estimate costs to the Federal government for the information collection request as follows:

Clerical costs	\$200
Other Salary costs (review, supervisory, etc.)	\$500
TOTAL COSTS	\$700

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB website (<http://www.ttb.gov>).

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

There are no program changes or adjustments to this information collection associated with this information collection approval request. On the Paperwork Reduction Act Notice on each form, TTB is updating its headquarters mailing address.

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.

B. Collection of Information Employing Statistical Methods

This collection of information does not use statistical methods.