

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0007

Brewer's Report of Operations and Quarterly Brewer's Report of Operations

Information Collections Issued under this Request Title:

- Brewer's Report of Operations (TTB F 5130.9).
- Quarterly Brewer's Report of Operations (TTB F 5130.9 or TTB F 5130.26).

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.

The IRC at 26 U.S.C. 5051, sets forth, in general, the Federal excise tax rates for beer produced in or imported into the United States, while 26 U.S.C. 7652 imposes the same tax on beer brought into the United States from Puerto Rico. To safeguard the revenue generated by that tax, the IRC in chapter 51, subtitle E, also contains various provisions defining and governing operations at brewers, including production, returns, removals, transfers, destructions, and losses of beer, along with various recordkeeping requirements.

Specific to this information collection request, 1513-0007, Brewer's Report of Operations and Quarterly Brewer's Report of Operations, the IRC at 26 U.S.C. 5415 requires that all brewers furnish reports of operations and transactions in the form, at the times, and for such periods as the Secretary prescribes by regulation.

Under the authority of 26 U.S.C. 5415, TTB has issued regulations in 27 CFR Part 25, Beer, and Part 28, Exportation of Alcohol, which require brewers to submit periodic operations reports. Under § 25.297(a), brewers are required to prepare and submit a monthly operations report using form TTB F 5130.9, Brewer's Report of Operations. However, under § 25.297(b)(1), a brewer who was liable for not more than \$50,000 in beer excise taxes the preceding calendar year and who reasonably expects to be liable for not more than \$50,000

in such taxes during the current calendar year “shall file quarterly operations reports” using either TTB F 5130.9 or the simplified TTB F 5130.26, Quarterly Brewer’s Report of Operations. Section 25.297(b)(2) and (3) explain when a brewer filing quarterly must begin to file monthly.

In addition, under 27 CFR 28.148, brewers are required to report beer or beer concentrate removed without payment of tax for export and such shipments returned to the brewer on TTB F 5130.9. TTB will soon issue a technical correction rule amending that section to allow brewers who export and who are required to file quarterly operations reports to use either TTB F 5130.9 or TTB F 5120.26.

Both operations report forms, TTB F 5130.9 and TTB F 5130.26, summarize the quantities of beer a brewer has on hand, and the quantities of beer produced, received, returned, removed, transferred, destroyed, lost, or otherwise gained or disposed of during the reporting period. TTB F 5130.26, the quarterly version of the brewer’s report, is a condensed version of TTB F 5130.9, and it reflects the less complex operations typical of smaller brewers.

The information collected from brewers on their operations reports regarding the amount of beer they produce, receive, return, remove, transfer, destroy, or otherwise gain or dispose of is necessary to protect the revenue and ensure compliance with the IRC requirements governing brewery operations.

This information collection is aligned with:

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 that TTB collects on brewer’s operations reports is necessary to protect the revenue and ensure compliance with the IRC requirements governing brewery operations, including those regarding beer production, bottling and packing, returns, removals, transfers, destruction, and other gains and losses. TTB examines these reports for completeness and accuracy and compares the provided information against other documentation, including excise tax returns and reports of exports, removals, transfers, and other authorized brewery activities. These examinations provide TTB with early evidence of unpaid tax liability and unauthorized or unexplained activities at a brewery that may present jeopardy to the revenue. As a result of these examinations, TTB may subsequently conduct audits or inspections to investigate the potential for unpaid excise taxes, as well as penalties and interest due to the United States.

TTB also uses the data supplied by brewers on TTB F 5130.9 and TTB F 5130.26 to compile and publish several generalized beer statistical reports, including monthly and year-to-date reports of production and removals, aggregated yearly production by State, and the number of brewers by production size.

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 included TTB F 5130.9 and TTB F 5130.26 in the Federal Government's online Pay.gov system, which allows respondents to electronically complete and submit brewer's operations reports to TTB; see <https://www.pay.gov/public/home>. In addition, "fillable-printable" versions of the two forms, as well as their instructions, are available on the TTB website at <https://www.ttb.gov/forms/5000.shtml>. On both Pay.gov and TTB.gov, the posted version of TTB F 5130.26 is a "smart form" (TTB F 5130.26sm) that auto calculates numerical amounts for the user.

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?

TTB F 5130.9 and TTB F 5130.26 collect information that is pertinent to each respondent and applicable to the specific issue of filing a brewer's report of operations on a monthly or quarterly basis, as required by the TTB regulations issued under the statutory authority of the IRC at 26 U.S.C. 5415. As far as TTB can determine, similar information is not available to the Bureau 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. 5415 requires that all brewers, regardless of size, furnish reports of operations in the form, at the times, and for such periods as the Secretary prescribes by regulation. In general, TTB considers its reporting requirements for brewers to be the minimum necessary to protect the revenue and ensure compliance with relevant laws and regulations. TTB notes that the reported information is gathered from usual and customary records kept during the normal course of business, such as production, return, transfer, and other records regarding inventory and production gains and losses.

Specifically, the TTB regulations require large brewers—defined as those liable for more than \$50,000 in beer excise taxes during a calendar year—to complete and submit operations reports on a monthly basis using form TTB F 5130.9. However, the TTB regulations require small brewers—defined as those not liable for not more than \$50,000 in beer excise taxes the preceding calendar year and who reasonably expect to be liable for not more than \$50,000 in such taxes during the current calendar year—to file quarterly operations reports using either TTB F 5130.9 or TTB F 5130.26. The quarterly report form, TTB F 5130.26, reflects the less complex operations typical of smaller brewers, and TTB believes approximately 90 percent of brewers are eligible to file quarterly using that simplified form.

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?

TTB believes the required information regarding brewery operations is the minimum necessary to verify the amount of beer produced, received, returned, removed, transferred, destroyed, lost, or otherwise gained or disposed of by a brewery. Not collecting the required information or collecting it less frequently would jeopardize the revenue as TTB would not be able to, or would be less able to, verify the amount of beer subject to tax produced or held at

a brewery and thus determine the resulting excise tax liability. Not collecting the required information or collecting it less frequently also would harm TTB's ability to enforce relevant laws and regulations, detect production anomalies at breweries, allocate audit and inspection resources, perform brewery audits, analyze industry trends, and compile generalized statistical reports for use by government agencies, academic institutions, trade associations, and industry members.

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? (See 5 CFR 1320.5(d)(2).)

Under 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. Under the TTB regulations, while small brewers are required to submit operations reports on a quarterly basis, large brewers must do so on a monthly basis (large brewers are defined for reporting purposes as those with \$50,000 or more in beer excise tax liability in a calendar year). In addition, the appropriate TTB officer may require a brewer who is otherwise eligible to file quarterly operations reports to file such reports monthly if that officer determines that there is a jeopardy to the revenue. For large brewers, TTB considers the monthly reporting requirement to be the minimum necessary to protect the revenue and ensure compliance with relevant laws and brewery regulations.

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 Wednesday, May 30, 2018, at 83 FR 24842. 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 on TTB F 5130.9 or TTB F 5130.26. 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 that section. TTB maintains these records in secure file rooms and computer systems with controlled access.

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?*

As of 2018, TTB has issued permits to approximately 9,000 brewers. However, not all permit holders submit brewery operations reports or submit a complete annual set of such reports. Various factors account for this discrepancy, including failure of a brewery to open, lack of beer production, bankruptcy, or other factors that cause a brewery to close.

Based on data regarding the number of brewers by production size, TTB estimates that 90 percent of brewers qualify to file operations reports on a quarterly basis. As such, based on recent data from TTB's National Revenue Center, TTB estimates the annual burden for this information collection request as follows:

On an Annual Basis	Brewer's Report of Operations (Monthly Reporting on TTB F 5130.9)	Quarterly Brewer's Report of Operations (TTB F 5130.9 or TTB F 5130.26).	Totals
No. of Respondents	530	4,770	5,300
No. of Annual Responses per Respondent	12	4	(4.8)
Total Annual Responses	6,360	19,080	25,440
Hours per Response	0.75 (45 min.)	0.75 (45 min.)	0.75 (45 min.)
Total Burden Hours	4,770	14,310	19,080

TTB also estimates that 50 percent of respondents will file operations reports electronically via the Pay.gov system (see Question 3 above).

Recordkeeping: Under 27 CFR 25.297(c), brewers are required to retain a copy of each operations report filed on TTB F 5130.9 or TTB F 5130.26 as part of the brewery's records. Under 27 CFR 25.300, brewers are required to retain their records for a period of 3 years; however, when TTB deems it necessary to protect the revenue, TTB may impose extensions of that retention period of up to 3 additional years.

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)?*

There is no cost to respondents associated with this collection. Brewers gather the information submitted on their operations reports from usual and customary records they keep during the normal course of business, including data and records regarding the amount of beer produced, received, returned, removed, transferred, destroyed, lost, or otherwise gained or disposed of at their brewery.

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

Estimates of annual cost to the Federal Government for this information collection are:

Clerical costs	2,500
Other Salary costs (review, supervisory, contractor, etc.)	15,200
Overhead	3,810
TOTAL COSTS	21,510

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 at <https://www.ttb.gov/forms/5000.shtml>.

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

There are no program changes associated with this information collection request, and TTB is submitting it only for extension purposes.

As for adjustments, due to a change in agency estimates, TTB is increasing the estimated number of respondents, responses, and annual burden hours associated with this information collection. These increases are the result of continued growth in the number of brewers regulated by TTB and thus the number of brewers who file operations reports.

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

Without disclosing the identify of any individual respondent, TTB uses the data submitted by brewers on their operations reports to compile and publish several generalized beer statistical reports, including monthly and year-to-date reports of production and removals, aggregated yearly production by State, and the number of brewers by production size. See <https://www.ttb.gov/beer/beer-stats.shtml>.

These statistical reports are used by other Federal agencies, State and local governments, academic institutions, trade associations, and individual industry members for a variety of economic analysis, planning, and statistical purposes.

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 requests approval to not display the expiration date for OMB approval of this information collection on forms TTB F 5130.9 and TTB F 5130.36sm and their related instruction documents. By not displaying the expiration date of this collection on the forms, TTB will not have to update the expiration date on the Pay.gov versions of the two forms (TTB does not control the Pay.gov website), or on the versions of the two forms and their instructions as posted on the TTB website, each time OMB re-approves this information collection. More importantly, this avoids confusion among respondents to this information collection when the OMB approval date may have passed but the approval for this collection continues on a month-to-month basis while the collection is under OMB review. In addition, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions of the forms produced by some businesses, at their own expense, for use with their electronic systems or for sale.

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

- (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.