

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0114**

**Beer for Exportation**

Information Collections Issued under this Title:

- Beer for Exportation (TTB F 5130.12).
- Beer for Exportation Monthly Summary Report and Recordkeeping Alternate Procedure (Industry Circular 2004-3).

**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 (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

The Internal Revenue Code (IRC) at 26 U.S.C. 5051 imposes Federal excise tax on beer removed from domestic breweries for consumption or sale. However, under the IRC at 26 U.S.C. 5053, beer may be removed from a domestic brewery without payment of tax for export, subject to regulations prescribed by the Secretary. Under that authority, the TTB beer regulations at 27 CFR 25.203 allow brewers to remove beer in bottles, kegs, or bulk containers without payment of tax for exportation, use as supplies on vessels and aircraft, or transfer to a foreign trade zone for export, if such removals are made in accordance with the TTB regulations in 27 CFR Part 28, Exportation of Alcohol.

The TTB regulations in 27 CFR part 28 require brewers to use form TTB F 5130.12 to notify the bureau of each removal of beer made without payment of tax for export purposes. These purposes include direct export to a foreign county, use as supplies on certain vessels or aircraft, transfer to a foreign trade zone for export or storage pending export, and shipment to United States armed forces stationed overseas. The form also provides proof of the beer's disposition as it is used by Customs or U.S. armed forces officials, as appropriate, to certify the beer's exportation, lading as supplies on an eligible vessel or aircraft, transfer to a foreign trade zone pending export, or receipt for export to

U.S. armed forces stationed overseas. The TTB regulations in 27 CFR part 28 that require or govern the use of TTB F 5130.12 include:

28.22	28.36	28.43	28.142	28.146	28.147
28.261	28.264	28.265	28.267	28.269	28.275
28.282	28.290	28.295	and 28.320.		

However, as authorized by 27 CFR 28.20, brewers may apply to use the alternate procedure described in TTB Industry Circular 2004–3 to report beer removed without payment of tax for export purposes to TTB and document its disposition.<sup>1</sup> Under this alternative, instead of using TTB F 5130.12 to make per-shipment reports to TTB, brewers complete the notice of shipment section of that form for each export removal but maintain the form and the related usual and customary records documenting the beer's disposition, such as bills of lading and certificates of receipt, at their premises. These forms and records must be made available for TTB inspection upon request. To notify TTB of such removals and their disposition, brewer use the information from those forms and records to provide two Monthly Summary Reports to TTB—one listing the date, amount, type, and total tax liability for each removal of beer made for export purposes during the month, and a second verifying that the brewer has received documentation of the beer's export for previously-reported withdrawals (such proof must be obtained within 90 days of the beer's export). While there is no prescribed TTB form for the monthly summary reports, the industry circular contains a suggested format for the report, which respondents electronically submit to TTB via a dedicated e-mail address.

This information collection is necessary to protect the revenue. Under the IRC and the TTB regulations, brewers making removals of beer without payment of tax for export purposes remain liable for the Federal excise tax on the removed beer until the beer is exported or destroyed. As such, TTB uses the required information to account for beer removed without payment of tax for export purposes and to ensure that non-taxpaid beer is not diverted into the taxable domestic market.

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?*

Under the IRC and the TTB regulations, brewers making removals of beer without payment of tax for export purposes remain liable for the Federal excise tax on that beer until it is actually exported or destroyed. Therefore, to protect the revenue, the TTB regulations in 27 CFR part 28 require brewers to notify TTB of all beer removed without payment of tax for export purposes and to provide certification or documentation of the beer's disposition. To make these notifications and provide the required proof of disposition, brewers may submit form TTB F 5130.12 for each such removal or use the monthly summary report and recordkeeping alternate procedure described in TTB Industry Circular 2004–3. TTB personnel may audit or otherwise verify the information

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<sup>1</sup> The letterhead applications submitted to TTB to use the alternate procedure described in Industry Circular 2004–3 are approved under OMB Control No. 1513–0082.

collected under this request in order to account for beer removed without payment of tax for export purposes and to ensure that such non-taxpaid beer is not diverted into the taxable domestic market.

*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 information.

Currently, TTB F 5130.12 is available as a fillable-printable form on the TTB Web site (see <https://www.ttb.gov/forms/5000.shtml>). In addition, once approved to use the alternate procedure described in Industry Circular 2004–3, respondents electronically submit the required Monthly Summary Reports to TTB as attachments to an e-mail sent to [exports@ttb.gov](mailto:exports@ttb.gov).

*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 information TTB requires under this collection request contains data that is pertinent and unique to each respondent and applicable to specific removals of beer made without payment of tax for export purposes. As far as TTB can determine, similar information regarding such removals is not available elsewhere.

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

TTB requires all brewers, regardless of size, to provide the required information concerning removals of beer made without payment of tax for export purposes in order to prevent diversion of non-taxpaid beer to otherwise taxable uses. As such, waiver or reduction of this collection requirement, simply because the respondent's business is small, would jeopardize the Federal revenue. In addition, TTB notes that respondents may request to use the alternative Monthly Summary Report in place of the per-removal reports made to TTB on TTB F 5130.12, which TTB believes reduces the burden of this collection request for all respondents.

*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 collects information regarding removals of beer made without tax for export purposes in order to protect the revenue. The required information allows TTB to account for such removals and assists TTB in preventing the diversion of beer removed without payment of tax to otherwise taxable uses. TTB requires respondents to provide the required information only when such removals are made, or, alternatively, on a

monthly summary basis. As such, not collecting the required information, or collecting it less frequently, would pose a jeopardy to 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?*

Under 5 CFR1320.5(d)(2)(iii), requiring respondents to submit more than an original and two copies of an information collection instrument is a special circumstance. When using TTB F 5130.12 to notify TTB of the export of beer without payment of tax and document the beer's subsequent export or receipt, respondents must execute Part I of that form in quadruplicate, and must prepare a fifth copy, marked "Consignee's Copy," when the shipment is for use on an aircraft.

In addition, under 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. In the case of this information collection request, respondents must report removals of beer made without tax for export purposes each time such a removal is made, or, alternatively, via a summary report submitted monthly to TTB. TTB believes that this frequency of reporting is necessary to protect the revenue as the collected information allows TTB to account for such removals, which assists TTB in preventing the diversion of beer removed without payment of tax to otherwise taxable uses.

*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 Tuesday, November 27, 2018, at 83 FR 60963. TTB received no comments regarding 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 request. 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 the required forms and reports in secure file rooms with controlled access and 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. 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 data, TTB estimates the annual burden associated with this information collection request as follows:

<b>Information Collection</b>	<b>No. of Respondents</b>	<b>Avg. No. of Responses / Respondent</b>	<b>No. of Responses</b>	<b>Time Burden Per Response</b>	<b>Total Estimated Burden Hours</b>
Beer for Export (submitted per removal on TTB F 5130.12)	150	10	1,500	1.65 hours	2,475
Monthly Summary Report and Recordkeeping Alternate Procedure	80	24*	1,920	3.0 hours**	5,760
<b>TOTALS</b>	<b>230</b>	<b>(avg. 14.87)</b>	<b>3,420</b>	<b>(avg. 2.408)</b>	<b>8,235</b>

\* Each respondents submits 2 reports each month.

\*\* 2 hours of recordkeeping and 1 hour of reporting.

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)?*

TTB does not believe respondents bear any additional costs as a result of this information collection requirement because they generate the required information during the normal course of business in order to complete usual and customary business records such as production records, bills of lading, shipping invoices, and sales receipts.

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

TTB estimates the annual cost to the Federal Government amounts to \$6,840 for clerical and supervisory activities. 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 (<https://www.ttb.gov>).

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

Program changes: Previously, TTB reported only one information collection under this collection request, Beer for Exportation, with each such removal reported to TTB on form TTB F 5130.12. However, this did not clearly account for the alternative procedure under which brewers submit a monthly summary report of such removals to TTB while maintaining records documenting each individual removal at their premises. Therefore, as a matter of agency discretion and for purposes of transparency, TTB is now dividing this collection request into two information collections:

- Beer for Exportation (reported on TTB F 5130.12 per the TTB regulations in 27 CFR part 28 noted above in Question 1); and
- Beer for Exportation Monthly Summary Report and Recordkeeping Alternate Procedure (as described in TTB Industry Circular 2004–3).<sup>2</sup>

As a result of this program change, for the Beer Exportation information collection filed on TTB F 5130.12, TTB is reporting 25 fewer annual respondents, resulting in an decrease of 4,520 responses and 7,458 annual burden hours for that information collection. For the monthly summary report and recordkeeping alternative procedure, TTB is reporting 80 annual respondents, each making 2 reports per month at 3 hours per response (2 hours of recordkeeping and 1 hour of reporting), resulting in the addition of 1,920 responses and 5,760 annual burden hours.

Taken together, for the overall information collection request, these program changes result in the addition of 55 respondents but an overall decrease of 2,600 responses and 1,698 annual burden hours. This reduction in the collection request's overall burden results from the addition of the monthly summary report and recordkeeping alternate procedure, which allows brewers who make a large number of removals of beer without payment of tax for export purposes to report such removals less frequently—on a monthly basis instead of on a per-removal basis.

Adjustments: As all reported changes to the number of respondents, responses, and burden hours for this information collection request result from the program changes noted above, there are no other adjustments to this information collection request.

Changes to TTB F 5130.12: Due to changes made to beer tax rates made by the Craft Beverage Modernization and Tax Reform Act (part of the Tax Cuts and Jobs Act, Public Law 115–97), on TTB F 5130.12, TTB has removed the reference to the \$7.00 per barrel tax rate in Item 9(e) and removed Footnote 2, which referred to the previous \$18.00 and \$7.00 per barrel tax rates for beer.

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

TTB will not publish the results of this information collection request.

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<sup>2</sup> The letterhead applications submitted to TTB to use the alternate procedure described in Industry Circular 2004–3 are approved under OMB Control No. 1513–0082.

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 form TTB F 5130.12. By not displaying the approval expiration date for this collection, TTB will not have to update that date on the paper form each time OMB approves the collection. This will avoid confusion among respondents when the collection's approval date may have passed but its approval continues on a month-to-month basis while it is under OMB review. In addition, respondents and other businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions produced for sale to others. In addition, TTB notes that the Monthly Summary Reports submitted to TTB under the alternate procedure are generated by respondents and, as such, there is no medium for TTB to display the OMB approval expiration date for this collection request on those monthly collection instruments.

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.