

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0005

Letterhead Applications and Notices Filed by Brewers; and Brewer’s Notice

Information Collections and Instruments Issued under this Title:

- New and Amended Brewer’s Notices (TTB F 5130.10 and Permits Online (PONL) Equivalent).
- Brewer’s Notices—Bond Exemption Applications (TTB F 5130.10 and Permits Online (PONL) Equivalent).
- Letterhead Applications and Notices Filed by Brewers (TTB REC 5130/2).

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 Department Order 120–01.

The IRC at 26 U.S.C. 5051–5056 imposes Federal excise taxes on beer, provides for specific exemptions from those taxes, and provides for payment and/or refund for those taxes. The IRC at 26 U.S.C. 5401 requires all brewers, before starting or continuing business, to furnish a notice to the officer designated by the Secretary, containing the information required by regulation as necessary to protect and insure collection of the revenue. Additionally, the IRC at:

- 26 U.S.C. 5411 lists authorized uses of brewery premises and stipulates that, by regulation, the Secretary may allow other uses that do not jeopardize the revenue.
- 26 U.S.C. 5412 states that brewers may remove beer from the brewery only in containers marked, branded, or labeled in such manner as required by regulation, but allows for pipeline transfers of beer to a contiguous distilled spirits plant.
- 26 U.S.C. 5414 permits removals of beer from one brewery to another brewery under certain circumstances.

- 26 U.S.C. 5415 requires brewers to keep records in the form and manner as prescribed by regulation. This section also requires brewers to make true and accurate returns of operations and transactions as prescribed by regulation.
- 26 U.S.C. 5417 authorizes establishment of pilot brewing plants for research, analytical, experimental, or developmental purposes, subject to regulations issued by the Secretary.

As authorized by those IRC sections, the TTB regulations in 27 CFR Part 25, Beer, require brewers to file a “Brewer’s Notice” with TTB prior to commencing operations or when making certain changes to the information contained in an existing Brewer’s Notice. The part 25 regulations also require brewers to file letterhead applications and notices regarding certain operations and changes at a brewery. The collected information is necessary to protect the revenue and ensure that brewers conduct their operations in compliance with relevant laws and regulations. The three information collections and their related regulations are:

New and Amended Brewer’s Notices

In general, the part 25 regulations require new brewers to file a “Brewer’s Notice,” including any required attachments, prior to commencing operations or opening a tavern on brewery premises, using form TTB F 5130.10. Additionally, other part 25 regulations require existing brewers to file an amended Brewer’s Notice when certain changes occur at a brewery, including changes to the brewery’s ownership, control, location, description, and bond or operating status. The specific TTB regulations associated with New and Amended Brewer’s Notices are:

§ 25.25 Operation of a tavern on brewery premises.	§ 25.61 General requirements for notice.
§ 25.62 Data for notice.	§ 25.63 Notice of registration.
§ 25.64 Maintenance of notice file.	§ 25.66 Organizational documents.
§ 25.68 Description of brewery	§ 25.71 Amended or superseding notices.
§ 25.72 Change in proprietorship.	§ 25.73 Change in partnership.
§25.75 Change in officers and directors.	§ 25.77 Change in location.
§ 25.78 Change in premises.	§ 25.79 Change in bond status.
§ 25.81 Alternation of brewery and bonded or taxpaid wine premises.	§ 25.85 Notice of permanent discontinuance.

In addition, 27 CFR 19.143 requires distilled spirits plant proprietors to file a Brewer’s Notice if they wish to alternate all or part of their plant premises as a brewery.

Letterhead Applications and Notices

Also as required by the part 25 regulations, brewers file letterhead applications and notices with TTB to apply to conduct or to report certain changes or regulated operations at the brewery. In general, brewers file letterhead applications to obtain TTB approval before beginning certain activities that TTB has determined pose the most jeopardy to the revenue. Changes or operations posing less jeopardy to the revenue require brewers to submit letterhead notices to TTB stating that they are making the reported change or undertaking the specified activity.

The following regulations in part 25 require the submission of letterhead applications:

§ 25.23 Restrictions on use.	§ 25.52 Variations from requirements
§ 25.272 Application (pilot brewing plants).	§ 25.273 Action on application.

The following regulations in part 25 require the submission of letterhead notices:

§ 25.74 Change in stockholders.	§ 25.81 Alternation of brewery and bonded or taxpaid wine premises.
§ 25.141 Barrels and kegs (label coding system).	§ 25.142 Bottles (label coding system).
§ 25.144 Rebranding barrels and kegs.	§ 25.158 Tax computation for bottled beer.
§ 25.167 Notice of brewer to pay reduced rate of tax.	§ 25.184 Losses in transit.
§ 25.213 Beer returned to brewery other than that from which removed.	§ 25.222 Notice of brewer (beer to be destroyed).
§ 25.225 Destruction of taxpaid beer which was never removed from brewery premises.	§ 25.277 Discontinuance of operations (pilot brewing plants).
§ 25.282 Beer lost by fire, theft, casualty, or act of God.	

Brewer's Notices—Bond Exemption Applications

In general, the IRC at 26 U.S.C. 5401 also requires brewers to provide a bond to insure protection of the revenue.¹ However, under amendments made in 2017 to the IRC at 26 U.S.C. 5551(d), certain small brewers are now exempt from the requirement to file a brewer's bond.² Under the TTB regulations at §§ 25.71 and 25.79, existing small brewers file an amended Brewer's Notice to apply for the authorized bond exemption.

This information collection request is aligned with —

- Line of Business/Sub-function: Law Enforcement / Substance Control.
- IT Investment: Permits Online and Tax Major Application systems.

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

As required by the IRC and the TTB regulations, respondents provide an original Brewer's Notice to inform TTB of their identity and intent to establish a brewery, along with its location, extent, and proposed operations. Existing brewers submit an amended Brewer's Notice or letterhead applications and notices, as appropriate, to inform TTB of changes in a

¹ OMB has approved brewer's bonds under control number 1513-0015; brewer's bond exemption applications are approved under this control number, 1513-0005.

² Effective January 1, 2017, section 332 of the Protecting Americans from Tax Hikes Act (PATH Act; Public Law 114-113, Division Q) amended the IRC at 26 U.S.C. 5551(d) to add an exemption to the bond requirements for alcohol beverage producers, including brewers, who are eligible to file excise taxes on an annual or quarterly basis. 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. 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.

brewery's bond requirements, description, control, location, processes, status, and operations, including the destruction, loss, or return of beer.

In summary, the Brewer's Notice serves as a new or amended application and approval document, and, together with a brewer's letterhead applications and notices, the collected information serves as an ongoing, permanent record of a brewery's operations. TTB uses the collected information to determine the respondent's identity and eligibility to operate a brewery, and ensure that the brewery and its operations conform to relevant the Federal laws and regulations. As such, this information collection is necessary to protect the revenue.

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 electronically file a new or amended Brewer's Notice using TTB's Permits Online (PONL) system. TTB also provides online tutorials and other guidance for its PONL system. Access to PONL and its related customer support materials is available on the TTB website at <https://www.ttb.gov/ponl/customer-support>. The paper Brewer's Notice form, TTB F 5130.10, is available as a fillable/printable paper form, TTB F 5130.10, on the TTB website at <https://www.ttb.gov/forms>.

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 collected information is pertinent to each respondent and applicable to the specific issue of filing a Brewer's Notice or letterhead applications and notices related to certain brewery operations. As far as TTB is able to 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 and the TTB regulations require all entities, regardless of size, to file and maintain a Brewer's Notice to operate as a brewer, as well as letterhead applications and notices regarding certain operations at a brewery or changes in such activities. To lessen respondent burden, TTB encourages the use of its electronic PONL system to file new and amended Brewer's Notices. Additionally, TTB notes that all brewers use less-burdensome letterhead applications and notices to apply to make or report certain changes to brewery operations. In sum, TTB considers the burden associated with this information collection request to be the minimum necessary to protect the revenue and ensure compliance with relevant Federal laws and regulations.

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?

This information collection request provides a permanent, ongoing record of a brewery's operations. Without the collected information, TTB could not fulfill the IRC's statutory requirement to obtain a notice from brewers, and it would not know who is a brewer, the location of breweries, and the operations they conduct. The lack of such information would jeopardize the revenue and TTB ability to ensure brewer's compliance with relevant Federal laws and regulations. Additionally, because brewers provide the collected information only on an as-needed basis, TTB cannot conduct this information collection less frequently.

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 27 CFR 25.64, Maintenance of notice file, a brewer must keep a file containing their Brewer's Notice and any documents incorporated into that Notice, including all letterhead applications and notices related to their brewery operations. Brewers must maintain this file at their premises for as long as the brewery remains in business, and the file must be readily available for inspection by an appropriate TTB officer.

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 public comments, TTB published a "60-day" comment request notice for this information collection request in the Federal Register on July 31, 2020, at 85 FR 46221. 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 information collection.

10. What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?

TTB provides no specific assurance of confidentiality for this information collection request, it does provide a Privacy Act Information notice for on form TTB F 5130.10 and in PONL. That notice explains TTB's use of the requested information and to what entities and for what purposes TTB may disclose the information. TTB does not provide Privacy Act Information notices for letterhead applications and notices because respondents generate those documents and, as such, there is no medium for TTB to display such notices.

Additionally, 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 computer systems and office space with controlled access, as appropriate.

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 request contains no questions of a sensitive nature. TTB collects personally identifiable information (PII) via the Brewer’s Notice, and this information is stored and retrievable from a TTB electronic system. Therefore, TTB has conducted a Privacy Impact Assessment (PIA) for the information collected under this request as part of its Permits Online system and the Tax Major Application system. TTB’s PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>. Additionally, TTB has issued a System of Records Notice (SORN) for the collected information under TTB .001–Regulatory Enforcement Record System, which TTB published in the Federal Register on January 28, 2015, at 80 FR 4637. (The letterhead applications and notices associated with this information collection request do not collect PII in an electronic system.)

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

Estimated Respondent Burden: Respondents file a Brewer’s Notice before commencing operations, and file amended Brewer’s Notices on an as-needed basis thereafter. Also, certain small brewers are now exempt from the requirement to file a bond, and such brewers file an amended Brewer’s Notice to apply for the bond exemption authorized under the IRC at 26 U.S.C. 5551(d). Additionally, brewers file letterhead applications and notices as necessary during the course of business. Respondents may file certain letterhead applications and notices only once, while they file others more frequently, particularly those related to changes in the status of a brewery. Based on recent data, TTB estimates the annual number of respondents, responses, and burden hours for this information collection request as follows:

Information Collection	Respondents	Responses / Respondent	Responses	Hours / Response	Burden Hours
New and Amended Brewer’s Notices	2,810 (PONL)	1	2,810	2.0	5,620
	520 (F 5130.10)	1	520	3.0	1,560
Subtotals	3,330	1	3,330	<i>(Avg. 2.1561)</i>	7,180
Brewer’s Notices– Bond Exemption Applications	1,690 (PONL)	1	1,690	1.0	1,690
	320 (F 5130.10)	1	320	1.0	320
Subtotals	2,010	1	2,010	1.0	2,010
Letterhead Applications & Notices Filed by Brewers	5,000	5	25,000	0.50	12,500
Totals	10,340	<i>(Avg. 2.9342)</i>	30,340	<i>(Avg. 0.7149)</i>	21,690

Estimated Respondent Labor Costs: TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations Fully-loaded Labor Rate/Hour³ = \$28.83						
Information Collection	Avg. Time / Response (Hours)	Labor Cost / Response*	Responses / Respondent	Total Labor Costs / Respondent*	Total Responses	Total Labor Costs**
New and Amended Brewer's Notices	2.1561	\$62.16	1	\$62.16	3,330	\$206,993
Brewer's Notices– Bond Exemption Applications	1.0	\$28.83	1	\$28.83	2,010	\$57,948
Letterhead Applications & Notices Filed by Brewers	0.5	\$14.42	5	\$72.10	25,000	\$1,802,500
TOTALS		<i>(Avg. \$23.22)</i>	<i>(Avg. 2.9342)</i>	\$68.14	30,340	\$2,067,441

* Rounded to nearest whole cent.

** Rounded to nearest whole dollar.

Respondent Record Retention: Under 27 CFR 25.64, Maintenance of notice file, a brewer must keep a file containing their Brewer's Notice and any documents incorporated into that Notice, including all letterhead applications and notices related to their brewery operations. Brewers must maintain this file at their brewery premises for as long as they remain in business, and the file must be readily available for inspection by an appropriate TTB officer.

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 are no annualized start-up or maintenance costs to respondents associated with this occasional information collection request. As for mailing costs, TTB estimates that an estimated 5,842 respondents send one paper Brewer's Notice form, letterhead application, or letterhead notice annually to TTB under this information collection request. TTB estimates that each mailed response requires no more than \$4.00 in postage and mailing supplies, resulting in an estimated total of \$23,368.00 in respondent mailing costs.

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

In general, TTB has determined that there are no annualized non-labor, printing, or distribution costs to the Government associated with this information collection because the Brewer's Notice is available on the TTB website in electronic form as part of its PONL system or as a printable-fillable form, and respondents self-generate brewer letterhead applications and notices.

³ Private Sector Fully-loaded Labor Rate per Hour = Wage rate x a factor of 1.4 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312000—Beverage and Tobacco Product Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations is \$28.83 (\$20.59 in wages plus \$8.24 in benefit costs). See the Bureau of Labor Statistics website at https://www.bls.gov/oes/current/naics3_312000.htm.

As for Federal Government labor costs, TTB has determined that its labor costs for this information collection request are as follows:

Personnel at TTB's National Revenue Center in Cincinnati, Ohio						
Position	Information Collection	Fully-loaded Labor Rate/Hour ⁴	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	New and Amended Brewer's Notices	\$32.13	0.33 hr.	\$10.60	3,330	\$35,298.00
	Brewer's Notices–Bond Exemption Applications		0.2 hr.	\$6.43	2,010	\$12,924.30
	Letterhead Applications & Notices Filed by Brewers		0.2 hr.	\$6.43	25,000	\$160,750.00
GS-11, Step 5, Specialist	New and Amended Brewer's Notices	\$58.91	3 hr.	\$176.73	3,330	\$588,510.90
	Brewer's Notices–Bond Exemption Applications		1 hr.	\$58.91	2,010	\$118,409.10
	Letterhead Applications & Notices Filed by Brewers		0.33 hr.	\$19.44	25,000	\$486,000.00
GS-13, Step 5, Supervisor	New and Amended Brewer's Notices	\$83.96	0.33 hr.	\$27.71	3,330	\$92,274.30
	Brewer's Notices–Bond Exemption Applications		0.25 hr.	\$20.99	2,010	\$42,189.90
	Letterhead Applications & Notices Filed by Brewers		0.2 hr.	\$16.79	25,000	\$419,750.00
TOTALS				(\$64.47)	30,340	\$1,956,106.50

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

Program Changes: As a matter of agency discretion, TTB is making several program changes to this information collection:

⁴ Federal Government Fully-loaded Labor Rate per Hour = Wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.13 (\$19.71 in wages plus \$12.42 in benefit costs); (2) GS-11, step 5, employee = \$58.91 (\$36.14 in wages plus \$14.77 in benefit costs); (3) GS-13, step 5, employee = \$83.96 (\$51.51 in wages plus \$32.45 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN_h.pdf.

- Previously, this information collection request was titled “Letterhead Applications and Notices Filed by Brewers, TTB REC 5130/2; and Brewer’s Notice, TTB F 5130.10.” TTB is retitling this information collection request “Brewer’s Notices; and Letterhead Applications and Notices Filed by Brewers” to place the information first filed by brewers, the Brewer’s Notice, first in the collection request’s title, and to eliminate references to information collection instruments in the collection request’s title, which is in line with current TTB policy.

- TTB also eliminating the paper-based information collection titled “Brewer’s Notice (Paper Form),” which has been separate from the electronic information collection titled “Brewer’s Notice (PONL Electronic System).” TTB is merging the newly estimated burden for burden for the paper-based collection with that for the electronic collection, and is retitling the collection as “New and Amended Brewer’s Notices”. This retitled collection will contain two collection instruments, paper form TTB F 5130.10 and the electronic Permits Online (PONL) Application for Brewery or Brewpub. TTB is taking this action because the two currently separate information collections, and their respective paper and electronic collection instruments, serve the same purpose—the submission to TTB of a new or amended Brewer’s Notice.⁵

- As part of its permit modernization effort, TTB has removed several items from the Brewer’s Notice form, TTB F 5130.10 and its PONL equivalent. Specifically, TTB has removed the requirement that applicants attach Trade Name Registrations (if required by their State), a Certificate to Transact Business in a Foreign State (if applicable), TTB F 5000.29, Environmental Information, and TTB F 5000.30, Supplemental Information on Water Quality Considerations, to their Brewer’s Notice applications. TTB also has removed a check box for Brewpub applicants to report plans to sell retail liquors other than beer. While TTB has removed these requirements from the Brewer’s Notice, TTB is not reporting any related burden reduction at this time. TTB accounted for the burden associated with TTB F 5000.29 and TTB F 5000.30 under OMB No. 1513–0023, and a undetermined number of respondents submitted Trade Name Registrations and/or Certificates to Transact Business in a Foreign State as part of their Brewer’s Notice.

Adjustments: Due to changes in agency estimates, TTB is reducing the overall number of annual respondents, responses, and burden hours associated with this information collection. Since TTB’s last burden estimate in 2017, the number of respondents submitting Brewer’s Bond Exemption Applications has increased, but the number of respondents submitting new and amended Brewer’s Notices and Brewer’s Letterhead Applications and Notices has decreased. Overall, TTB is reporting a decrease of 3,908 respondents, 9,100 responses, and 10,402 annual burden hours for this information collection request, as described below:

Information Collection	Previous Burden Estimate (2017)			New Burden Estimate		
	Respondents	Responses	Hours	Respondents	Responses	Hours
New and Amended Brewer’s Notices	6,298	6,298	14,695	3,330	3,330	7,180
Brewer’s Notice–Bond Exemption Applications	1,652	1,652	1,652	2,010	2,010	2,010

⁵ The Brewer’s Notices–Bond Exemption Applications information collection will remain a separate collection because TTB intends it to be a temporary collection, and it serves a different purpose than the New and Amended Brewer’s Notices collection.

Letterhead Applications & Notices Filed by Brewers	6,298	31,490	15,745	5,000	25,000	12,500
TOTALS	14,248	39,440	32,092	10,340	30,340	21,690
Change				- 3,908	- 9,100	- 10,402

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.

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?*

Brewer's Notice: As a cost saving measure for both TTB and the public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5130.10, and its PONL equivalent. By not displaying that date on the form, TTB will not have to update the form on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

Letterhead Applications and Notice Requirements: For the letterhead application and notice submission requirements contained in this information collection request, respondents generate these documents, and, as such, there is no medium for TTB to display the information collection request's OMB approval expiration date.

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

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

B. Collections of Information Employing Statistical Methods.

This information collection request does not employ statistical methods.