

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0053

Report of Wine Premises Operations

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. 5367 states, “The proprietor of a bonded wine cellar or taxpaid wine bottling house shall keep such records and file such returns, in such form and containing such information, as the Secretary may by regulations provide.” The IRC at 26 U.S.C. 5555 also requires any person liable for tax under chapter 51 of the IRC to keep records, provide statements, and make returns as prescribed by regulation. Under those authorities, the TTB regulations in 27 CFR Part 24, Wine, require wine premises proprietors to file periodic operations reports using form TTB F 5120.17, Report of Wine Premises Operations.¹ This report collects information regarding, among other things, the production, bottling, and removal of wine by tax class, the use of wine spirits, the type and quantity of winemaking materials received and used, the amount of liquid in fermenters at the end of the reporting period, and the production of special natural wine and nonbeverage wine.

The TTB regulations in 27 CFR part 24 prescribe the filing of the wine premises operations report in the following regulatory sections: 24.65, 24.75, 24.136, 24.140, 24.176, 24.197, 24.237, 24.268, 24.292, 24.293, 24.294, 24.295, 24.300, 24.303, 24.313, and 24.316.

¹ The Craft Beverage Modernization Act (CBMA) portion of the Tax Cuts and Jobs Act of 2017 (Public Law 115–97) temporarily lowered the Federal excise tax rates for certain smaller amounts of alcohol beverages removed in 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Public Law 116–94) extended those lower rates for such products removed through December 31, 2020. Because of the differing tax rates between recent calendar years, TTB currently offers two “smart form” versions of the wine premises operations report, “TTB F 5120.17sm” to report activities in 2017 or before, and “TTB F 51020.17sm Temp” to report activities from 2018 through 2020. Respondents will use the first form to report wine premises operations in 2021 and beyond if the lower taxes rates expire, while respondents will use the second form to report such activities in the future if the lower alcohol excise tax rates are temporarily or permanently extended by law. See <https://www.ttb.gov/tax-audit/tax-and-fee-rates>.

In addition, under TTB's alcohol export regulations at 27 CFR 28.126, wine premises proprietors also report the amount of wine exported wine free of tax on TTB F 5120.17.

The collected information is necessary to protect the revenue. TTB's use of this report allows it to analyze winery operations to ensure collection of the Federal excise tax due on the wine produced, and ensure proprietors produce wine in accordance with applicable Federal law and regulations. Additionally, TTB's analysis may reveal problem areas that indicate jeopardy to the revenue or improper identification of wine, which allows TTB to focus its limited resources on questionable activities and perform field inspections with minimal disruption to regulated industry members. TTB also uses the collected data to produce its generalized monthly statistical report on wine operations, which it posts for public viewing on its website.

This information collection is aligned with —

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

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

TTB uses the information collected on TTB F 5120.17, Report of Wine Premises Operations, to protect the revenue. TTB may check reported taxpaid removals from a winery against its excise tax returns to ensure that proprietors have paid all such taxes due.² TTB also may analyze the collected information to ensure proprietors produce wine in accordance with applicable Federal law and regulations, and to identify any problems that indicate jeopardy to the revenue or improper identification of wine. This allows TTB to focus its limited resources on problematic operations and perform field inspections with minimal disruption to regulated industry members. TTB also uses the collected data to produce its generalized monthly statistical report on wine operations, which it posts on its website for use by State and local governments, industry members, the media, and other members of the public.

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?

Currently, respondents may electronically complete and submit TTB F 5120.17 using the Pay.gov website; see <https://www.ttb.gov/epayment> and <https://www.pay.gov/public/login>.

In addition, TTB offers two fillable-printable "smart form" versions of the wine premises operations report: TTB F 5120.17sm to report activities in 2017 or before, and TTB F 5120.17sm Temp to report activities in 2018, 2019, or 2020. The two forms will continue in use for 2021 and beyond as well (see footnote 1). The two smart forms have built-in logic and automation features designed to prevent common mistakes and make completion of the forms easier for the respondent. For example, each smart form automatically makes mathematical calculations, and it prevents printing of the form if any mandatory data field is incomplete. TTB has posted the two smart forms and instructions for their use on its website at <https://www.ttb.gov/forms>.

² See TTB F 5000.24, Excise Tax Return, approved under OMB No. 1513-0083.

Furthermore, under the TTB wine regulations at 27 CFR 24.22, Alternate methods or procedures, TTB will consider requests by respondents to use their own computer-generated reports to reduce the burden of this reporting requirement. TTB approves requests to use alternatives to the TTB wine premises operation report form on a case-by-case basis if the alternate report contains the same information as the TTB form, and it does not cause administrative difficulty or jeopardy to the revenue.

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 collected information is pertinent to each respondent and specific to the reporting of winery operational activities to TTB. As far as TTB 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?

In general, the TTB regulations at 27 CFR 24.300(g)(1) require wine premises proprietors to file operations reports on a monthly basis. However, under § 24.300(g)(2), wine premises proprietors who file alcohol excise tax returns quarterly are eligible to file operations reports on the same basis, while proprietors who file such tax returns annually are eligible to file operations reports annually as well.³

In addition, TTB offers “smart form” versions of TTB F 5120.17, which has built-in logic and automation features to prevent common mistakes and make completion of the form easier for the respondent. Finally, under the TTB wine regulations at 27 CFR 24.22, Alternate methods or procedures, TTB will consider requests by proprietors, regardless of size, to use self-generated computer reports containing the required information to reduce the burden of this reporting requirement.

Given these less burdensome filing options for proprietors of small wine premises, TTB believes that this information collection does not have a significant impact on a substantial number of small businesses or 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?

Proprietors of the largest wineries pay more than \$1,000,000 per month in Federal excise tax, and, as such, their monthly wine premises operations reports document large potential tax liabilities. Not collecting monthly operations reports from large wine taxpayers, or collecting them less frequently, would jeopardize the revenue and the monitoring value of those reports. For proprietors of smaller wineries, due to significantly lower tax liabilities of

³ Under 26 U.S.C. 5061(d)(4), certain small alcohol excise taxpayers may pay alcohol excise tax and file tax returns on a quarterly or annual basis. Under that paragraph, to pay tax and file returns quarterly, a taxpayer must reasonably expect to be liable for not more than \$50,000 in such taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year. To pay tax and file returns annually, a taxpayer must reasonably expect to be liable for not more than \$1,000 in such taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year.

such taxpayers, the TTB regulations allow for quarterly or annual filing of operations reports for such proprietors. However, not collecting the required information would jeopardize the revenue, as TTB would not be able to compare operational information with excise tax return information for such premises.

In addition, if TTB did not conduct this collection or conducted it less frequently, it could not compile monthly wine industry statistical reports, which are used for a variety of purposes by industry members, Federal and State government agencies, educational institutions, media outlets, and the public.

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 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly and requiring retention of a record for more than three years are special circumstances. As noted, the largest wine excise taxpayers are required to file operations reports on a monthly basis. This is necessary to protect the revenue, which amounts to over \$1 million per month for each of the largest taxpayers. Smaller wine excise taxpayers may file operations reports on a quarterly or annual basis, depending on their tax liability. The retention period for wine premises operations reports is three years, but this period may be extended for an additional three years at the direction of the 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 comments from the public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on September 3, 2020, at 85 FR 55067. 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 collection. 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 taxpayer-related information unless disclosure is specifically authorized by that section. TTB maintains the collected information in secure computer systems and file rooms 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. Additionally, this information request 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?

Estimated Respondent Burden: Based on recent data and the frequency of reporting, TTB estimates the respondent burden for this information collection as follows:

Estimated Annual Burden – Wine Premises Operations Report (TTB F 5120.17)					
Frequency of Reporting	No. of Respondents	Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
Monthly	1,780	12	21,360	1.10	23,496
Quarterly	7,030	4	28,120	1.10	30,932
Annually	3,390	1	3,390	1.10	3,729
Totals	12,200	(4.3336)	52,870	1.10	58,157

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

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour = \$29.65⁴						
Frequency of Reporting	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Monthly	1.10 hours	\$32.62	12	\$391.44	21,360	\$696,763.20
Quarterly	1.10 hours	\$32.62	4	\$130.48	28,120	\$917,274.40
Annually	1.10 hours	\$32.62	1	\$32.62	3,390	\$110,581.80
Totals	1.10 hours	\$32.62	(4.3336)	(\$141.362)	52,870	\$1,724,619.40

NOTE: All costs rounded to the nearest whole cent.

⁴ Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), 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 \$29.65 (\$20.59 in wages plus \$9.06 in benefit costs). See the BLS website at https://www.bls.gov/oes/current/naics3_312000.htm.

Respondent Record Retention: In general, the TTB regulations at 27 CFR 24.300(d) require wine industry respondents to retain record copies of forms submitted to TTB for 3 years from the date of the record or the date of the last entry in the record, whichever is later.

13. *What is the estimated annual cost burden to respondents or recordkeepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

The wine premises operations data reported to TTB under this information collection request consists of usual and customary purchase, production, gain, loss, removal, transfer, and other such information kept by respondents during the normal course of business to control and track their product production and inventory. As such, TTB believes that there are no start-up, maintenance, or other annualized costs to respondents associated with this information collection.

As for respondent mailing costs, TTB estimates that of the 52,870 annual responses to this collection, respondents submit 34,365 (65 percent) by mail, while the remaining 18,505 (35 percent) are submitted electronically via the Pay.gov website. TTB estimates that each of those 34,365 mail-in responses requires \$1.00 in postage and mailing supplies, resulting in total annual mailing costs of \$34,365 for this information collection. Per-respondent costs for mailed responses are \$1.00 for a respondent filing once annually, \$4.00 for a respondent filing quarterly, and \$12.00 for a respondent filing monthly.

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

As noted above, TTB estimates that of the 52,870 annual responses to this collection, respondents submit 34,365 (65 percent) responses by mail, which TTB clerks must process. Respondents submit the remaining 18,505 (35 percent) responses via the Pay.gov website, which automatically processes such responses. TTB also estimates that it has \$1.00 in overhead costs for each of the 52,870 total responses to this collection. As such, TTB estimates its annual costs for this information collection as follows:

Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio					
Position	Fully-loaded Labor Rate/Hour ⁵	Processing Time per Response	Costs per Response*	Responses	Total Costs
GS-5, Step 5, Clerk	\$32.13	0.1 hour	\$3.21	34,365	\$110,311.65
Overhead Costs			\$1.00	52,870	\$52,870
TOTAL COSTS			(\$3.08647)	52,870	\$163,181.65

⁵ Federal Government Fully-loaded Labor Rate per Hour = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rate for the Cincinnati, Ohio, wage area for a GS-5, step 5, employee are \$32.13 (\$19.71 in wages plus \$12.42 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.

Printing and distribution costs to TTB have decreased to \$0.00 in due to the availability of TTB F 5120.17 on the TTB website and on Pay.gov; see <https://www.ttb.gov/forms> and <https://www.pay.gov/public/login>.

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

There are no program changes associated with this information collection at this time. As for adjustments, due to changes in agency estimates, TTB is increasing the estimated number of annual respondents, responses, and burden hours associated with this collection, from 6,043 respondents to 12,200, from 31,555 responses to 52,870, and from 34,710 hours to 58,157. The increase in the number of respondents, responses, and burden hours associated with this information collection is due to continued growth in the number of small winery premises in the United States. In addition, due to changes in agency estimates, TTB is decreasing the average number of annual responses submitted per respondent, from approximately 5.22 per respondent to 4.33. The decrease results from the increasing number of respondents filing wine operations reports on an annual or quarterly basis, as authorized by the TTB regulations at 27 CFR 24.300(g)(2).

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

Based on the wine premises operations reports required under this collection, TTB publishes monthly and yearly Wine Statistical Releases on its website for use by industry members, Federal and State government agencies, educational institutions, media outlets, and the public. TTB generalizes the collected data, and no wine premises or proprietors are identifiable from the published information. See <https://www.ttb.gov/wine/wine-statistics>.

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 public, TTB is seeking approval not to display the expiration date this information collection's OMB approval on its related form. By not displaying that date on TTB F 5000.24, TTB will not have to update the form's OMB expiration date on the paper form, on its website, and on the Pay.gov website each time that OMB approves this information collection. Removing the OMB expiration date from TTB F 5000.24 also avoids confusion among users of the form when that date has passed but the collection is still under OMB review. In addition, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any versions of the form 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 collection.
- (i) No statistical survey methodology is involved.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.