

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0009

Application to Establish and Operate Wine Premises, and Wine Bond.

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.

In general, the IRC at 26 U.S.C. 5351–5357 provides for the establishment of bonded wine cellars, bonded wineries, and taxpaid wine bottling houses only if the proprietor submits an application to, and files a bond with, the Secretary before beginning operations. Specifically, the IRC at:

- 26 U.S.C. 5351 provides for the establishment of premises for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of un taxpaid wine, including the use of un taxpaid wine spirits in wine production. Such premises are known as “bonded wine cellars” except for those operations engaged in production which are known as “bonded wineries.”
- 26 U.S.C. 5352 provides for the establishment of premises for the bottling, packaging, or repackaging of taxpaid wines, which are known as “ taxpaid wine bottling houses.”
- 26 U.S.C. 5354 describes the required bond amounts for bonded wine cellars and bonded wineries, and it authorizes the Secretary to issue regulations concerning such bonds. Under that section, taxpaid wine bottling houses are exempt from the bond requirement, while, under 26 U.S.C. 551(d), small wineries eligible to file taxes on an annual or quarterly basis as authorized under 26 U.S.C. 5061(d)(4) are also exempt from the bond requirement.¹

¹ Under the IRC at 26 U.S.C. 5061(d)(4), to use annual filing, an alcohol excise 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.

- 26 U.S.C. 5356 authorizes the Secretary to issue regulations regarding the information required on wine premises applications in order to allow the Secretary to “determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.”

Under those IRC authorities, TTB has issued regulations concerning the content and filing of wine premises applications and the filing of wine bonds as required by the IRC, most of which are codified in 27 CFR Part 24, Wine, Subpart D, Establishment and Operations. The regulations in that subpart require the completion and submission of forms TTB F 5120.25, Application to Establish and Operate Wine Premises, and TTB F 5120.36, Wine Bond, unless, in the latter case, the proprietor is exempt from bond requirements.

Applicants use TTB F 5120.25 and the required supporting documents to establish their identity and qualifications for a new bonded wine cellar, bonded winery, or taxpaid wine bottling house, including the name, location, type, organization, premises, and proposed operations of the business, and if the proprietor is exempt from the wine bond requirement. Current proprietors also use TTB F 5120.25 to amend the required application information already on file. Proprietors maintain the completed or amended application and supporting data as a permanent record of the business and its qualifications to operate.

The following TTB regulations require the use of TTB F 5120.25, prescribe data or supporting documentation for it, or contain other requirements related to the form:

18.40	19.143	24.100	24.101	24.102	24.105
24.106	24.107	24.108	24.109	24.110	24.111
24.112	24.113	24.114	24.115	24.117	24.120
24.122	24.123	24.124	24.125	24.126	24.127
24.128	24.129	24.130	24.131	24.135	24.136
24.137	25.81.				

Unless otherwise exempted by the IRC at 26 U.S.C. 5551(d) as noted above, all bonded wine cellars and bonded wineries also must file a bond to guarantee payment of the wine excise tax. Using TTB F 5120.36, proprietors describe their collateral or surety bond coverage. The following TTB regulations require the use of TTB F 5120.36 or contain other requirements related to the bond or its form:

24.145	24.146	24.147	24.148	24.153	24.154
24.155	24.156	24.157	24.158	24.159	24.291.

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?*

TTB uses the information on the wine premises application form, TTB F 5120.25, and the attached supporting documents to determine the location and extent of the proposed wine

premises, the type of operations to be conducted on such premises, and if those operations will be in conformity with Federal law and regulations. TTB uses the information on the wine bond form, TTB F 5120.36, to identify the bonded premises, the type and amount of the bond, the bond's surety (if any), and to determine if the required bond will provide adequate protection for the revenue. The use of these standardized forms provides TTB with an efficient method of collecting the required information, which 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?

The information required by the wine premises application and wine bond may be completed and submitted electronically via TTB's Permits Online (PONL) system's Winery Application. Access to PONL, the PONL Tutorial, and other customer information is available on the TTB website at <https://www.ttb.gov/ponl/customer-support>. In addition, TTB F 5120.25 and TTB F 5120.36 are available as fillable-printable forms on the TTB website forms page at <https://www.ttb.gov/forms>, as are supplemental instructions for both forms and a bond amount worksheet.

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 information collection request requires wine premises and bond information that is pertinent and specific to each respondent. 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?

As a matter of law, the IRC mandates the filing of an application to establish a wine premises and the submission of a wine bond. Except to the extent authorized under the bond exemption set forth in 26 U.S.C. 5551(d) for certain small wine taxpayers, those requirements cannot be waived merely because the respondent's business is small. TTB believes the information collected is the minimum necessary to ensure protection of the revenue, and, as such, TTB does not believe that this occasional information collection requirement has a significant impact on 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?

If TTB did not conduct this collection request, it would not be able to fulfill the IRC's statutory requirements regarding applications and bonds for wine premises, which were enacted to protect the revenue and ensure compliance with statutory and regulatory requirements regarding such premises. Additionally, because respondents submit the required wine premises application and bond information only on an as-needed basis, TTB cannot conduct this collection request 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 5 CFR 1320.5(d)(2)(iv), requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years is a special circumstance. In the case of this collection request, the TTB regulations at 27 CFR 24.117, Maintenance of application file, wine premises proprietors must maintain a permanent file containing the required wine premises application and bond information, and make that file readily available at their premises for inspection by TTB.

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 information collection request. A general Privacy Act Statement is included on the wine premises application form, TTB F 5120.25, which explains what TTB uses the requested information for and to whom and for what purposes TTB may disclose the collected 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 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. This information collection requirement gathers personally identifiable information (PII) in an electronic system, and TTB has conducted a Privacy Impact Assessment (PIA) for the collected information as part of the Tax Major Application. TTB has issued a Privacy Act System of Records Notice (SORN) for that system as part of its TTB .001–Regulatory Enforcement

Record System, which TTB published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB's PIAs and SORN are available on the TTB website at <https://www.ttb.gov/foia>.

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

Estimated Respondent Burden: In summary, based on recent data, TTB estimates that 7,315 respondents each submit one response to this information collection request annually, resulting in 7,315 annual responses, with each response taking an average of 0.97 hours to complete, for an estimated total annual of burden of 7,096 hours. TTB estimates the number of annual respondents, responses, and burden hours for the two information collections contained in this request as follows:

Information Collection	Instrument	Respondents	Responses / Respondent	Total Responses	Burden Hour / Response	Total Burden Hours
Wine Premises Applications	TTB F 5120.25 (paper)	495	1	495	1.0	495
	Permits Online (PONL)	3,185	1	3185	1.0	3,185
	Bond Exemption Applications (TTB F 5120.25 & PONL)	2,310	1	2,310	1.0	2,310
	Subtotal:	5,990	1	5,990	1.0	5,990
Wine Bond	TTB F 5120.36	450	1	450	1.0	450
	PONL	875	1	875	0.75	656
	Subtotal	1,325	1	1,325	(0.8347)	1,106
TOTALS:		7,315	1	7,315	(0.97)	7,096

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

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour² = \$29.65*						
Information Collection	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent*	Total Responses	Total Labor Costs
Wine Premises Applications	1.0 hr.	\$29.65	1	\$29.65	5,990	\$177,603.50
Wine Bond	0.8347 hr.	\$24.75	1	\$24.75	1,325	\$32,793.75
TOTALS:	(0.97)	(\$28.76)	1	(\$28.76)	7,315	\$210,397.25

* Labor costs rounded to the nearest whole cent.

Respondent Record Retention: Under the TTB regulations at 27 CFR 24.117, Maintenance of application file, wine premises proprietors must maintain a permanent file containing the required wine premises application and bond information, which must be readily available at their premises for inspection by TTB.

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 believes there are no annualized start-up or ongoing operation or maintenance costs to respondents for this occasional information collection. TTB estimates respondent mailing costs related to this information collection request as follows:

Information Collection	Mailing Cost per Response	Responses Made by Mail*	Total Mailing Costs
Wine Premises Applications	\$10.00	495	\$4,950.00
Wine Bond	\$2.00	450	\$900.00
TOTALS			\$5,850

* There are no mailing costs to respondents for electronic submissions made via Permits Online..

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

TTB estimates the annualized costs to the Federal Government for this information collection request as follows:

² Private Sector Fully-loaded Labor Rate = Hourly wage rate + benefit costs, calculated as hourly wage x 1.44 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 \$29.65 (\$20.59 in wages plus \$9.06 in benefit costs). See the Bureau of Labor Statistics website at https://www.bls.gov/oes/current/naics3_312000.htm.

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio*					
Information Collection & Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
Wine Premises Applications					
GS-5, Step 5, Clerk	\$32.13	0.4 hr.	\$12.85	5,990	\$76,971.50
GS-11, Step 5, Specialist	\$58.91	3.0 hr.	\$176.73		\$1,058,612.70
GS-13, Step 5, Supervisor	\$83.96	0.3 hr.	\$25.19		\$150,888.10
<i>Subtotal</i>	<i>(\$58.05)</i>	<i>3.7 hr.</i>	<i>\$214.77</i>	<i>5,900</i>	<i>\$1,286,472.30</i>
Wine Bond					
GS-5, Step 5, Clerk	\$32.13	0.1 hr.	\$3.21	1,325	\$4,253.25
GS-11, Step 5, Specialist	\$58.91	0.5 hr.	\$29.46		\$39,034.50
GS-13, Step 5, Supervisor	\$83.96	0.2 hr.	\$16.79		\$22,246.75
<i>Subtotal</i>	<i>(\$61.83)</i>	<i>0.8 hr.</i>	<i>\$49.46</i>	<i>1,325</i>	<i>\$65,534.50</i>
TOTALS				7,315	\$1,352,006.80

* Labor costs rounded to the nearest whole cent.

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.

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

There are no program changes associated with this collection approval request at this time. As for adjustments, due to changes in agency estimates, TTB is increasing the number of annual respondents, responses, and burden hours associated with this information collection request, from 4,495 respondents and responses to 7,315, and from 3,345 hours to 7,096. The increases in respondents and responses results largely from continued growth

³ Federal Government Fully-loaded Labor Rate = Hourly 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, 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 \$22.77 in benefit costs); and (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.

in the number of wineries in the United States. In addition to increase in burden hours resulting from that growth, TTB also is increasing the per-response burden for the wine premises application information collection from 0.25 hour to 1 hour to better account for the respondent's need to gather and attach supporting documents to their wine premises application.

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?

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 forms, TTB F 5120.25 and TTB F 5120.36, or its related PONL screens. By not displaying that date on the forms or in PONL, TTB will not have to update those items on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper forms, self-produced electronic copies of the forms, or versions of the forms made for sale to other entities. Additionally, not displaying the information collection's OMB approval expiration date on the forms will avoid confusion among members of the public who may have copies of the forms with different expiration dates in their possession.

18. What are the exceptions to the certification statement?

(c) See item 5 above.

(f) This is not a recordkeeping requirement.

(i) No statistics are involved.

B. Collections of Information Employing Statistical Methods.

This information collection request does not employ statistical methods.