

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0065

Wholesale Dealers Records of Receipt of Alcohol Beverages and Disposition of Distilled Spirits, and Monthly Summary Reports (TTB REC 5170/2)

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. 5121 requires wholesale alcohol beverage dealers to keep daily records of all distilled spirits received and disposed of, and, of all wine and beer received. That section also authorizes the Secretary to require such dealers to submit periodic summaries of their distilled spirits receipt and disposal records. In addition, section 5121 authorizes the Secretary to issue regulations regarding the keeping and submission of wholesale dealer records and summary reports, while section 5123 sets forth retention and inspection requirements for such records and reports.

Under those IRC authorities, the TTB regulations in 27 CFR part 31 require wholesale alcohol beverage dealers to keep daily records of all distilled spirits received and disposed of, as well as daily records of all wine and beer received. Under those regulations, such dealers keep the required records by maintaining usual and customary business records, such as consignment, purchase, and sales invoices, or, for wine and/or beer, by substituting a record book showing the required receipt information. The TTB regulations regarding the keeping of wholesale dealer records are found at 27 CFR 31.151, 31.152, 31.155 through 31.158, 31.171, and 31.172.

Under 27 CFR 31.160, TTB, at its discretion, may require a wholesale dealer to submit monthly summary reports regarding distilled spirits received and disposed of on a daily basis. For example, TTB may require such reports from a wholesale dealer with a known history of noncompliance. Also, under § 31.162, a wholesale dealer required to make such reports must submit a report marked "Final" when discontinuing business. TTB has no prescribed form for this report, and the regulations allow a wholesale dealer to submit the report in a format adapted to the dealer's accounting and recordkeeping systems.

Finally, 27 CFR 31.191 requires wholesale dealers to retain the required records and copies of any required monthly summary reports for at least 3 years, and to make all such records and reports available for TTB inspection. Under that regulation, TTB also may direct a dealer to maintain the required records and report copies for up to an additional 3 years if TTB deems such retention necessary.

The required records and reports are necessary to protect the revenue as they provide an audit trail from point of production to point of sale for taxable alcohol beverages.

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?

TTB uses the required wholesaler dealer receipt and disposition records, and any required monthly summary reports regarding the receipt and disposition of distilled spirits, to protect the revenue. The required information provides an audit trail from point of production to point of sale for taxable alcohol beverages. This allows TTB to ensure that such dealers are not diverting alcohol beverages and to verify that that permit holders are engaged in only the operations stated on their permits.

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 the required information. Currently, TTB permits the use of usual and customary business records, including those in electronic formats, for the required wholesale dealer records. As for the monthly summary report, TTB has no prescribed form for this report and wholesale dealers may submit reports generated electronically.

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 records and reports that are pertinent and unique to each respondent's specific wholesale alcohol beverage operations. As far as TTB can determine, similar information regarding such operations 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 requires all wholesale dealers, regardless of size, to keep daily records of their receipt and disposition of distilled spirits and their receipt of wine and beer. As such, TTB cannot waive or reduce these statutory requirements simply because a respondent's

business is small. However, TTB notes that, under its regulations, wholesale dealers keep the required information using commercial invoices or other similar usual and customary records kept during the normal course of business. TTB also notes that the few wholesale dealers that it requires to submit summary reports of distilled spirits received and disposed of do so only on a monthly basis. As such, TTB believes that this reporting requirement has no significant impact on a substantial number of small businesses.

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?

All wholesale dealers are required by the IRC at 26 U.S.C. 5121 and the TTB regulations to keep daily records of the receipt and disposition of distilled spirits and the receipt of wine and beer, and, if required, to submit monthly summary reports of their receipt and disposal of distilled spirits. Without these records, and without any required monthly summary reports, TTB would be unable to determine if individual wholesale dealers are accurately accounting for the receipt and disposition of distilled spirits and/or the receipt of wine and beer. This would prevent TTB from determining whether wholesale dealers have illegally diverted those commodities. As such, not collecting this information or collecting it less frequently would pose 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? (See 5 CFR 1320.5(d)(2).)

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 regarding this information collection in the Federal Register on June 15, 2021, at 86 FR 31818. 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?

While TTB provides no specific assurance of confidentiality for this information collection, 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and return information unless specifically authorized under that section. TTB notes

that the required wholesale dealer records remain under the control of the dealer at their premises, and that TTB keeps any required monthly summary reports 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?*

Estimated Respondent Burden: Based on recent data, TTB estimates that 26,325 alcohol wholesale dealers are required to keep daily records of receipt and disposition of distilled spirits and receipt of wine and beer. However, because wholesale dealers use usual and customary records kept during the normal course of business to meet this information collection requirement, the recordkeeping portion of this information collection imposes no burden on respondents, as set forth in 5 CFR 1320.3(b)(2). As for the reporting portion of this information collection, TTB estimates that it will require no more than 50 wholesale dealers to submit monthly summary reports regarding their receipt and disposition of distilled spirits, resulting in a total of 600 annual responses. TTB further estimates that each response will require 2 hours to complete, resulting in an estimated total annual burden of 1,200 hours for the reporting portion of this information collection.

Estimated Respondent Labor Costs: For the recordkeeping portion of this collection, the use of usual and customary business records imposes no additional labor costs on respondents, per 5 CFR 1320.3(b)(2). TTB estimates the respondent labor costs for the reporting portion of this information collection as set forth below:

Respondent Labor Costs: NAICS 424800 – Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers –Office & Administrative Support Occupations* Fully-Loaded Labor Rate = \$30.54¹				
Avg. Time / Response	Cost per Response	Cost for 12 Annual Responses	Total Annual Responses	Total Labor Costs
2.0 hours	\$61.08	\$732.96	600	\$36,648.00

¹ The Fully-loaded Labor Rate = Hourly wage rate + benefit costs, which, for the private sector, is calculated as hourly wage x 1.44. 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 424800 – Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations (43–0000) is \$30.54 (\$21.21 for hourly wages plus \$9.33 for benefit costs); see https://www.bls.gov/oes/current/naics4_4240A1.htm.

Respondent Record Retention: As required by 27 CFR 31.191, wholesale dealers must retain the required records and copies of any required monthly summary reports for at least 3 years, and to make all such records and reports available for TTB inspection. Under that regulation, TTB also may direct a dealer to maintain the required records and report copies for up to an additional 3 years if TTB deems such retention necessary.

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 information collection, which consists of receipt and disposition records that respondents keep during the normal course of business and, if required by TTB, monthly summary reports generated from those records. For the estimated 50 respondents required to submit monthly summary reports, TTB believes that their annual mailing costs to be no more than \$10.00 per response. Given that those 50 respondents make 12 annual responses, TTB estimates annual mailing costs for this collection to be no more than \$120.00 per respondent, and \$6,000.00 in total.

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

Respondents keep the usual and customary business records required under this information collection at their premises, and, as such, there is no cost to the Federal Government for the recordkeeping portion of this collection. As for the monthly summary report portion of this collection, TTB estimates its annual labor costs as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0006*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.45	0.1 hour	\$3.25	50	\$162.50
GS-13, Step 5, Supervisor	\$84.79	1 hour	\$84.79		\$4,239.50
TOTALS		1.1 hours	\$88.04	50	\$4,402.00

There are no printing and distribution costs to the Government associated with this information collection since there is no prescribed TTB form for the wholesale dealer monthly summary report.

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

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.45 (\$19.91 in wages plus \$12.54 in benefit costs); and (2) GS-13, step 5 = \$84.79/hour (\$52.02 in wages plus \$32.77 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf.

There are no program changes associated with this information collection request at this time. As for adjustments, due to a change in agency estimates, TTB is increasing the number of respondents to the recordkeeping portion of this collection request, from 24,300 to 26,325. This increase results from continued growth in the number of wholesale alcohol dealers in the United States. However, as that portion of this collection request consists of usual and customary records kept during the normal course of business, there is no increase in the burden associated with this collection, per 5 CFR 1320.3(b)(2). As for the reporting portion of this collection request, due to a change in agency estimates, TTB is accounting for respondent mailings costs of \$10.00 per response to submit monthly summary reports to TTB. Those annual costs total \$120.00 per respondent and \$6,000 in total for the estimated 50 respondents required to submit monthly summary reports to TTB.

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.

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?

There is no prescribed TTB form associated with this information collection. As such, there is no medium for TTB to display the OMB approval expiration date.

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 information collection request does not employ statistical methods.