

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0007

Brewer's Report of Operations and Quarterly Brewer's Report of Operations

Information Collections Issued under this Request Title:

- Brewer's Report of Operations (TTB F 5130.9).
- Quarterly Brewer's Report of Operations (TTB F 5130.9 or TTB F 5130.26sm).

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, under chapter 51 of the IRC, beer produced in or imported into the United States is subject to Federal excise tax. To safeguard that revenue, the IRC at 26 U.S.C. 5415 requires that all brewers furnish reports of operations and transactions in the form, at the times, and for such periods as the Secretary prescribes by regulation.

Under the authority of that IRC section, TTB has issued regulations in 27 CFR Part 25, Beer, and Part 28, Exportation of Alcohol, requiring brewers to submit periodic operations reports. Specifically, § 25.297(a) requires brewers to submit monthly operations reports using form TTB F 5130.9, Brewer's Report of Operations. However, under § 25.297(b)(1), certain small brewers file quarterly operations reports using either TTB F 5130.9 or the simplified TTB F 5130.26, Quarterly Brewer's Report of Operations, while §§ 25.297(b)(2) and (3) explain when brewers filing quarterly must begin to file monthly.¹ In addition, § 28.148 requires brewers include on their operations reports the amount of beer or beer concentrate removed without payment of tax for export, as well as such removals returned to the brewer.

¹ Brewers eligible to file quarterly are those who were liable for no more than \$50,000 in beer excise taxes during the preceding calendar year and who reasonably expect to be liable for no more than \$50,000 in such taxes during the current calendar year.

Both the monthly and quarterly operations reports summarize the amounts of beer a brewer has on hand, and the quantities of beer they produced, removed, transferred, destroyed, lost, or otherwise gained or disposed of during the reporting period. The quarterly version of the brewer's report is a condensed version of the monthly report, and it reflects the less complex operations typical of smaller brewers.

The information collected from brewers on their operations reports regarding the amount of beer they produce, remove, or otherwise gain or dispose of is necessary to protect the revenue and ensure compliance with the IRC requirements governing brewery operations.

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 collected on brewer's operations reports, TTB F 5130.9 and TTB F 5130.26, to protect the revenue and ensure compliance with the IRC requirements governing brewery operations. TTB compares the provided information against other collected information, such as excise tax returns, to identify evidence of unpaid tax liability and unauthorized or unexplained activities at a brewery that may jeopardize the revenue. Based on these examinations, TTB may subsequently conduct audits or inspections to investigate potential unpaid excise taxes, as well as penalties and interest due to the United States. TTB also uses the collected operations report data to compile and publish several generalized beer statistical reports, including monthly and year-to-date reports of production and removals, aggregated yearly production by State, and the number of brewers by production size.

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?

Respondents may electronically complete and submit TTB F 5130.9 or TTB F5130.26 to TTB via the Federal government's Pay.gov system; see <https://www.ttb.gov/epayment>. Respondents may also download fillable-printable versions of the two forms at no cost from the TTB website at <https://www.ttb.gov/forms>. On both the Pay.gov and TTB.gov websites, TTB F 5130.26 is a "smart form" (TTB F 5130.26sm) that auto calculates numerical amounts for the user. In addition, detailed instructions for each form are available as printable documents on the TTB website forms page as TTB F 5130.9i and TTB F5130.26i.

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?

TTB F 5130.9 and TTB F 5130.26sm collect information that is pertinent to each respondent and specific to their brewery operations. As far as TTB can determine, similar information is not available to the Bureau elsewhere.

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

The IRC requires that all brewers, regardless of size, submit operations reports in the form, at the times, and for such periods as the Secretary prescribes by regulation. TTB has reduced the reporting burden on approximately 90 percent of all brewers by allowing small brewers to file quarterly operations reports instead of the monthly reports required of larger brewers. (In general, the TTB regulations define small brewers as those liable for no more than \$50,000 in excise taxes during the preceding and current calendar years.) TTB also notes that brewers gather the required information from usual and customary production, shipping, and inventory records kept during the normal course of business.

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 believes the required information regarding brewery operations is the minimum necessary to verify the amount of beer produced, removed from, or otherwise gained or disposed of by a brewery. Not collecting the required information or collecting it less frequently would jeopardize the revenue as TTB would not be able to, or would be less able to, verify the amount of beer subject to tax produced or held at a brewery and thus determine the resulting excise tax liability. Not collecting the required information or collecting it less frequently also would harm TTB's ability to enforce relevant laws and regulations, detect production anomalies at breweries, allocate audit and inspection resources, perform brewery audits, analyze industry trends, and compile generalized statistical reports for use by government agencies, industry members, 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? (See 5 CFR 1320.5(d)(2).)

Under the OMB regulations at 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. Under the TTB regulations, while small brewers are required to submit operations reports on a quarterly basis, large brewers must do so on a monthly basis (large brewers are defined for reporting purposes as those with \$50,000 or more in beer excise tax liability in a calendar year). For large brewers, TTB considers the monthly reporting requirement to be the minimum necessary to protect the revenue and ensure compliance with relevant laws and brewery regulations.

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 16, 2021, at 86 FR 51720. 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 request.

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. 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 that section specifically authorizes such action. TTB maintains these records 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 request contains no questions of a sensitive nature. In addition, this 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: TTB has issued permits to approximately 13,000 brewers. However, not all brewery permittees submit operations reports or submit a complete annual set of such reports. Various factors account for this discrepancy, including failure to open, lack of beer production, bankruptcy, or other factors that cause breweries to close.

Based on recent data, TTB estimates that up to 7,500 brewers will file operations reports annually, and that 90 percent of those are small brewers that qualify to file such reports on a quarterly basis. As such, TTB estimates the annual burden associated with this information collection request as follows:

On an Annual Basis	Brewer's Report of Operations (Monthly Reporting on TTB F 5130.9)	Quarterly Brewer's Report of Operations (TTB F 5130.9 or TTB F 5130.26sm).	Grand Totals
No. of Respondents	750	6,750	7,500
No. of Annual Responses per Respondent	12	4	(4.8)
Total Annual Responses	9,000	27,000	36,000
Hours per Response	0.75 (45 min.)	0.75 (45 min.)	0.75 (45 min.)
Total Burden Hours	6,750 hours	20,250 hours	27,000 hours

TTB also estimates that 50 percent of respondents will file operations reports electronically via the Pay.gov system (see Question 3 above).

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

NAICS 312000 – Beverage Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour² = \$30.50*						
Information Collection	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Monthly Reports	0.75 hour	\$22.88	12	\$274.56	9,000	\$205,920.00
Quarterly Reports	0.75 hour	\$22.88	4	\$91.52	27,000	\$617,760.00
TOTALS	0.75 hour	\$22.88	(4.8)	(\$109.824)	36,000	\$823,680.00

* Labor costs rounded to the nearest whole cent unless otherwise shown.

Recordkeeping: Under 27 CFR 25.297(c), brewers are required to retain a copy of each operations report filed on TTB F 5130.9 or TTB F 5130.26sm as part of the brewery's records. Under 27 CFR 25.300, brewers are required to retain their records for a period of 3 years; however, when TTB deems it necessary to protect the revenue, TTB may impose extensions of that retention period of up to 3 additional years.

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 that there are no start-up, capital, or ongoing costs to respondents for this collection. Brewers gather the information submitted on their operations reports from usual and customary production, receipt, shipping, and inventory records they keep during the normal course of business, which document the amount of beer a brewer produced, gained, and disposed of during the period covered by the report.

As for postage and mailing supply costs, TTB estimates that only the 3,750 respondents (50 percent of 7,500 total respondents) who send paper reports to TTB have such costs. TTB also estimates that each paper response costs respondents \$2.00 to submit. Therefore, annually, the 375 respondents who mail 12 monthly reports have \$24.00 in such costs, while the 3,375 respondents who mail 4 quarterly reports have \$8.00 in such costs. In total, the respondent mailing costs for this information collection are \$36,000.00. (4,500 monthly

² 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 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations (43–0000) is \$30.50 (\$21.18 for hourly wages plus \$9.32 for benefit costs); see https://www.bls.gov/oes/current/naics4_312100.htm.

responses + 13,500 quarterly responses = 18,000 annual mail responses x \$2.00 per response = \$36,000.00.)

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

TTB estimates its annual labor costs for this information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0007*					
Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-6, Step 5, Clerk	\$36.17	6 minutes	\$3.62	18,000 (paper only)	\$65,160.00
GS-11, Step 5, Specialist	\$59.50	6 minutes	\$5.95	36,000 (paper and electronic)	\$214,200.00
Totals	(\$38.80)	12 minutes	(\$7.76)	36,000	\$279,360.00

* Labor costs rounded to the nearest whole cent.

In addition, TTB estimates that it has \$1.00 in overhead costs for each brewer's operational report submitted, for a total of \$36,000.00 in such costs. However, TTB's printing and distribution costs have decreased to \$0.00 in due to the availability of its forms to the public on the TTB website's forms page at <https://www.ttb.gov/forms>.

As such, total cost to the Federal Government for this information collection is **\$315,360.00** (\$279,360.00 in labor costs plus \$36,000.00 in overhead costs).

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

There are no program changes associated with this information collection request, and TTB is submitting it only for extension purposes. As for adjustments, due to a change in agency estimates, TTB is increasing the estimated number of annual respondents, responses, and burden hours associated with this information collection request—from 5,300 respondents to 7,500, from 25,440 responses to 36,000, and from 19,080 burden hours to 27,000. These increases are the result of continued growth in the number of brewers in the United States, which are regulated by TTB and thus are required to file operations reports.

Forms and Instructions: On forms TTB F 5130.9 and TTB F 5130.26sm, TTB is adding a notice near the top of each form advising that respondents should view the separate instructions for the forms, TTB F 5130.9i or TTB F 5130.26i, as appropriate. On those separate instruction documents, TTB F 5130.9i and TTB F 5130.26i, TTB is updating online

³ 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) Federal hourly wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-6, step 5, employee = \$36.17 (\$22.19 in wages plus \$13.98 in benefit costs); and (2) GS-11, step 5 = \$59.50/hour (\$36.50 in wages plus \$23.00 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.

contact information for its National Revenue Center, and is updating its website URL for Pay.gov information. In addition, on each instruction document, in the Paperwork Reduction Act Notice for this information collection, TTB is revising the title of the person to whom comments regarding the information collection and its burden are directed, from "Reports Management Officer," to "Paperwork Reduction Act Officer. In addition, in that notice on each form, TTB is adding a reminder to respondents not to mail completed forms to the comment submission address.

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

Without disclosing the identify of any individual respondent, TTB uses the data submitted by brewers on their operations reports to compile and publish several generalized brewery statistical reports, including monthly and year-to-date reports of beer production and removals, aggregated yearly beer production by State, and the number of brewers by production size. See <https://www.ttb.gov/beer/statistics>. Other Federal agencies, State and local governments, academic institutions, industry members, and the public use those reports for a variety of economic analysis, planning, and statistical purposes.

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?

TTB will display the expiration date for OMB approval for this information collection on its related forms, TTB F 5130.9, Brewer's Report of Operations, and TTB F 5130.26sm, Quarterly Brewer's Report of Operations.

18. What are the exceptions to the certification statement?

- (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.