

DEPARTMENT OF THE TREASURY
ALCOHOL TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0055

TTB F 5640.2 Offer in Compromise of Liability Incurred under Federal Alcohol Administration Act, as amended

A. JUSTIFICATION

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

In 1935, Congress passed the Federal Alcohol Administration Act (FAA Act) to remedy the failures of legislation and enforcement during the Prohibition era. The Act provides for issuance of basic permits to distillers, rectifiers, wine producers, wholesalers, and importers. The Act also defines and prohibits unfair competition and trade practices such as exclusive outlets (monopolistic control of retail outlets), "tied houses" (induced by buy from only one source, consignment sales (purchase with the privilege of return or conditions of sale), plus any labeling or advertising which is not in conformity with FAA Act regulations. The Department of Treasury, through its designate TTB was given the authority to enforce the FAA Act statutes.

In addition, 27 U.S.C. 207 provides for the Secretary of the Treasury to compromise the liability of persons found to be in violation in lieu of civil or criminal action. TTB F 5640.2 is the legal document submitted by the proponent to request settlement. The guidelines concerning the filing of an offer in compromise are described in 27 CFR 70.483.

We are making minor changes to this information collection to make it clearer and up-to-date. Also, we corrected the regulatory citation. We are submitting this as a revision.

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

TTB F 5640.2 identifies the person who has committed the violation(s), the violation(s) to be compromised, and a statement of the amount of the offer. Also the person describes the circumstances covering the violations and provides a justification for acceptance of the offer in compromise. TTB personnel examine and process the form to determine the adequacy of the offer in compromise in relation to the alleged violation(s) of the law. Based upon the information submitted, a decision is made by TTB as to whether civil penalties or criminal prosecution should be pursued. The form

is voluntarily submitted by a person who wishes to compromise violations under the FAA Act.

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 completion of TTB F 5640.2 is voluntary and information provided by the respondent is unique to the respondent and the unique circumstances involved. Using information technology would not significantly reduce the burden on the respondent.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

TTB F 5640.2 collects information that is applicable only to the needs of each respondent and the unique circumstances involved. As far as we can determine, similar information is not available any where else.

Information similar to that collected by TTB is not available elsewhere because of the nature of TTB's mission and the particular businesses that are regulated.

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

All entities, regardless of size, must complete this information collection instrument if they wish to seek a compromise of the violations. The information requested is the minimum necessary for TTB to determine if the offer in compromise should be accepted.

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?

Respondents complete this information collection instrument only when they are alleged to have committed a violation of the FAA Act statutes and seek, through an offer in compromise, to settle the case. If this information were not submitted, TTB would have to administer action against the permittee through either criminal prosecution or civil penalties, as opposed to a monetary settlement.

7. Are there any special circumstances associated with this information collection?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day Federal Register notice was published for this information collection on Friday, April 25, 2008, 73 FR 22462. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this collection.

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

No specific assurance of confidentiality is provided on this form. However, the confidentiality of the information collected on this form is protected by 5 U.S.C. 552.

11. What justification is there for questions of a sensitive nature?

No questions of a sensitive nature are asked.

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

Completion of this form should take the 12 respondents an average of approximately 2 hours to complete. Prior experience indicates that the respondents will complete a single form during the year.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

There is no cost associated with this collection.

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

Estimates of annual cost to the Federal Government are as follows:

Printing	\$ 100
Distribution	100
Clerical Costs	322
Other Salary (review <u>supervisory, etc.)</u>	<u>2,009</u>
TOTAL	\$ 2,531

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There are no program changes or adjustments associated with this collection.

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

The results of this collection will not be published.

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?

We will display the expiration date of OMB approval for this collection.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.