

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0059

TTB REC 5150/3 - Usual and Customary Business Records Relating to Tax-Free Alcohol

A. Justification

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

Use of alcohol free of tax is regulated to prevent illegal diversion to taxable beverage use. A comprehensive system of controlling the use of tax-free alcohol is imposed by 26 U.S.C. 5271-5276. Alcohol may be withdrawn from a distillery free of tax for nonbeverage purposes--

by the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia [26 U.S.C. 5214(a)(2)];

for use of any educational organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning [26 U.S.C. 5214(a)(3)(A)];

for any laboratory for use exclusively in scientific research [26 U.S.C. 5214(a)(3)(B)];

for use at any hospital, blood bank, or sanitarium (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums [26 U.S.C. 5214(a)(3)(C)]; or

for the use of any clinic operated for charity and not for profit (including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof) [26 U.S.C. 5214(a)(3)(D)].

The system of controlling tax-free alcohol was developed during Prohibition. Although beverage alcohol was illegal, there was still a need for alcohol for scientific research and medical purposes. Implementing regulations in 27 CFR Part 22 allow tax-free alcohol to be used for nonbeverage purposes in scientific research and in certain medicinal uses described above.

Alcohol used by regulated individuals is potable. Therefore, the law and implementing regulations require an application and a permit to withdraw and use alcohol free of tax. The law and implementing regulations also require recordkeeping, reporting, and other operational procedures.

Records included in this submission are usual and customary business records including purchase invoices and internal records controlling the flow of chemicals/medicines through processes of scientific research or the dispensing of medicine. TTB believes that regulated individuals and entities maintain these kinds of records in the normal course of business because the records document the purchase and the use of chemicals and/or medicines through all stages of scientific research or the dispensing of medicine. Accordingly, the following recordkeeping requirements are consolidated in this submission covering usual and customary business records relating to tax-free alcohol:

#### RECORDS

- § 22.122 Losses in Transit.
- § 22.123 Losses on Premises.
- § 22.134 Records of Shipment.
- § 22.151 Return (Spirits to Distilled Spirits Plant).
- § 22.152 Reconsignment in Transit.
- § 22.155 Emergency Disposition to another Permittee.
- § 22.161 Records (Transaction).
- § 22.162 Inventories (Physical).

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

These records are maintained at the premises of the regulated individual and are routinely inspected by TTB personnel during field tax compliance examinations. These examinations are necessary to verify that all tax-free alcohol can be accounted for and is being used only for purposes authorized by law and regulations.

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?

We have approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the maintenance of required records.

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?

The records maintained by each respondent are pertinent to the specific operations of that respondent. As far as we 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?

These recordkeeping requirements are considered to be the minimum necessary to ensure compliance. This collection of information is not susceptible to reduced requirements for small 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?

By ensuring that alcohol has not been diverted to beverage use, tax revenue and public safety are protected. If these records were not maintained there would be a significant gap in the audit trail and it would be difficult or impossible to trace alcohol transactions. Without this recordkeeping requirement, no recording of the data elements necessary to verify these transactions would be prescribed. Not collecting this information or less frequent collection of this information would pose jeopardy to the revenue.

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 Wednesday, December 23, 2009, 74 FR 68325. 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?

These records are maintained at the premises of the regulated individual for 3 years following the date of transaction (27 CFR 22.164). However, 26 U.S.C. 6103 and 5 U.S.C. 552 protect the confidentiality of proprietary information obtained by the Government from regulated individuals.

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

We ask no questions of a sensitive nature.

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

There are 4,751 respondents and responses. These recordkeeping requirements involve usual and customary business records only; therefore, we are requesting 1 burden hour.

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

No cost is associated with this collection.

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

There is no cost to the Federal government.

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 however we have increased the number of respondents/responses from 4,499 to 4,751, but this does not affect the 1 burden hour requested.

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?

It would be inappropriate to display the expiration date for OMB approval because this is a recordkeeping requirement and the records are maintained at the respondent's place of business, therefore, unlike the form, there is no medium on which to display the date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.