

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0022

Information Collection Request Title:

Annual Report of Concentrate Manufacturers and Usual and Customary Business Records-Volatile Fruit-Flavor Concentrate Plants, TTB REC 5520/1.

(Includes: TTB REC 5520/1, Usual and Customary Business Records—Volatile Fruit-Flavor Concentrate Plants; and TTB F 5520.2, Annual Report of Concentrate Manufacturer.)

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.

Manufacturers of volatile fruit-flavor concentrate are regulated because these products contain ethyl alcohol that could be diverted for beverage use to circumvent payment of the Federal alcohol excise tax, thus jeopardizing the revenue.

The Internal Revenue Code (IRC) at 26 U.S.C. 5511 authorizes the Secretary of the Treasury to prescribe regulations requiring manufacturers of volatile fruit flavor concentrates to file applications, keep records, make reports, and meet certain other requirements. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers this IRC section 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 has delegated certain IRC administrative, enforcement, regulatory authorities to TTB through Treasury Department Order 120-01.

TTB has issued regulations concerning the manufacture of such concentrates, which are codified in 27 CFR Part 18—Production of Volatile Fruit-Flavor Concentrate.

Recordkeeping

All recordkeeping requirements contained in 27 CFR part 18 and included in this information collection request are usual and customary business records. Depending on the proprietor's preference, these may include record books, papers, commercial invoices, bills of lading, or other similar records showing the production, removal, sale, transportation, and use of concentrate and the juice or mash from which it is produced. TTB believes that the regulated manufacturers could not succeed in business without maintaining these usual and customary business records. TTB also believes these recordkeeping requirements are necessary for TTB to verify operations and to ascertain whether such manufacturers are in compliance with Federal law and regulations.

27 CFR part 18 contains the following recordkeeping requirements:

- 27 CFR 18.51 – The proprietor is required to maintain a record showing the processing material used, by kind and quantity.
- 27 CFR 18.54(d) – The proprietor is required to record transfers of concentrate on a record of transfer.
- 27 CFR 18.55 – The proprietor is required to affix to each container of concentrate a label showing the information as described in the regulation.
- 27 CFR 18.56 – The proprietor is required to record and report the receipt of returned concentrate. The report is made on the annual report, TTB F 5520.2.
- 27 CFR 18.61 – This section contains a general requirement to keep records and specifies the place where records must be kept and for how long. Records are required with respect to the production, transfer, or return of concentrate and the juice or mash from which it is produced. However, the section states that the proprietor need not prepare a specific record to meet these requirements and that any book, paper, invoice, bill of lading, or similar instrument that the proprietor prepares or receives for other purposes may be used if all of the required information is shown. The proprietor will retain records and reports for 3 years from the date prepared, or 3 years from the date of the last entry, whichever is later.
- 27 CFR 18.62 – The proprietor is required to prepare a record reflecting the transfer of concentrate, juice, or fruit mash from plant premises. The record may consist of a commercial invoice, bill of lading, or other similar document, as long as the required information pertaining to transfers is described.
- 27 CFR 18.63 – When concentrate, juice, or fruit mash is transferred from plant premises to a bonded wine cellar, additional information is required, as prescribed by this regulation.

Reports

As noted above, the Internal Revenue Code (IRC) at 26 U.S.C. 5511 authorizes the Secretary of the Treasury to prescribe regulations requiring manufacturers of volatile fruit flavor concentrates to, among other things, make reports as necessary to ensure protection of the revenue.

Under this authority, the TTB regulations at 27 CFR 18.65 requires such manufacturers to submit an annual report on form TTB F 5520.2. The report accounts for all concentrates manufactured, removed, or treated so as to be unfit for beverage use. TTB requires this information to verify that ethyl alcohol is not being diverted, thereby jeopardizing Federal alcohol excise tax revenues.

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: Regulatory Major Application System.

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

Manufacturers of volatile fruit-flavor concentrate maintain the required records at or convenient to their plant, and TTB personnel routinely use the records during field tax compliance examinations to verify that untaxpaid alcohol has not been diverted for beverage use. TTB uses the annual reports compiled on TTB F 5520.2 to monitor the operations of the regulated manufacturers to ensure that Federal alcohol excise tax revenues are protected.

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 maintenance of the required records and the submission of the required annual report. Currently, TTB F 5520.2 is available free to the public as a fillable, printable form on the TTB website (<http://www.ttb.gov/forms/5000.shtml>).

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?*

To minimize duplication, the TTB regulations in 27 CFR part 18 require the keeping of usual and customary business records. With regard to the annual reporting requirement, 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?*

TTB considers these recordkeeping and annual reporting requirements to be the minimum necessary to protect the revenue. These regulatory standards cannot be reduced on the basis of the size of the respondent's 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 discontinuance or less frequent collection of this information would pose a 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?*

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? 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 general public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on October 15, 2014, at 79 FR 61939. 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 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, and a copy of the annual report, are maintained at the premises of the regulated individual. The annual reports submitted to TTB on TTB F 5520.2 are maintained in secure file cabinets. While no specific assurance of confidentiality is provided on TTB F 5520.2, the confidentiality of the information collected under this request is protected from disclosure by Federal law at 5 U.S.C. 552 and under 26 U.S.C. 6103.

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.

TTB has completed a Privacy Impact Assessment (PIA) for information collected under this request as part of the Regulatory Major Application System, and has issued a Privacy Act System of Records notice (SORN) for this system under TTB .001—Regulatory Enforcement Record System, published in the Federal Register on December 1, 2011, at 76 FR 74847. TTB’s PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

Recordkeeping: The records maintained by volatile fruit-flavor manufacturers under this information collection are usual and customary business records that the respondent would maintain in the normal course of doing business. Therefore, this recordkeeping requirement does not create a burden for the respondent.

Reporting: Based on historical data, TTB estimates that there are 80 respondents to this information collection. The estimated average amount of time to complete and submit the annual report on TTB F 5520.2 is 20 minutes. Therefore, the total annual burden is 27 hours.

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)?*

There is no cost associated with this collection.

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

There is no cost to the Federal government associated with this information collection. Printing and distribution costs to the Federal government for TTB F 5520.2 have decreased to \$0.00 due to free availability to the public of TTB forms on the TTB website (<http://www.ttb.gov/forms/5000.shtml>).

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

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.*

TTB will not publish the results of this 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?*

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of the form associated with this information collection. By not displaying the expiration date of this collection on the form, TTB will not have to update the form's expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any marginally-punched continuous printed versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on this form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue in use regardless of when OMB's approval has expired.

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 collection does not employ statistical methods.