

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement -- Information Collection Request**  
**OMB Control Number 1513-0055**

Information Collection Request Title:

Offer in Compromise of Liability Incurred Under Federal Alcohol Administration Act

(Includes: TTB F 5640.2: Offer in Compromise of Liability Incurred Under Federal Alcohol Administration Act.)

**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.*

Passed by Congress in 1935 to remedy the failures of Prohibition, the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. 201 *et seq.*) authorizes the Secretary of the Treasury to issue basic permits to distillers, rectifiers, wine producers, wholesalers, and importers. The FAA Act also defines and prohibits unfair competition and trade practices such as exclusive outlets (monopolistic control of retail outlets), "tied houses" (induced to buy from only one source), and consignment sales (purchase with the privilege of return or conditions of sale), and the Act prohibits any labeling or advertising that is not in conformity with its provisions.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d), and the Secretary has delegated his authorities under the Act to TTB through Treasury Department Order 120-01.

The FAA Act at 27 U.S.C. 207, also provides for the monetary compromise of the liability of persons alleged to be in violation of the Act in lieu of civil or criminal action. TTB F 5640.2 is the legal document submitted to TTB by the proponent to request a compromise settlement for violations of the FAA Act. The guidelines concerning the filing of a FAA Act offer in compromise are described in the TTB regulations at 27 CFR 70.483.

This information collection is aligned with —

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

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

TTB F 5640.2 is submitted by a person or business (the proponent) who wishes to monetarily compromise violations of the FAA Act. The form identifies the proponent who has committed the violation(s), the violation(s) to be compromised, and states the amount of the compromise offer. Also, the proponent describes the circumstances of 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 FAA Act. Based upon the information submitted, a decision is made by TTB either to accept the offer in compromise or to pursue civil penalties or criminal prosecution against the proponent.

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 information provided on TTB F 5640.2 is pertinent and unique to each respondent and the individual circumstances involved. Using information technology would not significantly reduce the burden on the respondent.

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 5640.2 collects information that is applicable and unique to each respondent and the individual circumstances involved in the alleged FAA violation(s). 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?*

All entities, regardless of size, must complete this information collection instrument when seeking a compromise of the alleged FAA Act violation(s). The information TTB requests in the collection is the minimum necessary for TTB to determine if it should accept the offer in compromise.

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 TTB F 5640.2 only when they are alleged to have committed a violation of the FAA Act's provisions and seek, through an offer in compromise, to settle the case against them. If this information were not submitted to TTB, the agency would have to take action against the respondent through criminal prosecution or civil penalties, as opposed to a monetary settlement.

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?*

No specific assurance of confidentiality is provided on this form, and a redacted version of the form is posted to the TTB website at <http://www.ttb.gov/fo/compromise.shtml>. Through secure storage of the submitted forms and the redaction of the posted forms, TTB safeguards the information collected on this form that is protected by 5 U.S.C. 552 and 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 Systems, 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?*

TTB is increasing the estimated number of respondents for this collection from 18 to 20, an increase of 2 respondents. Completion of this form should take each respondent an average of 2 hours. Prior experience indicates that the respondents will complete a single form during the year.

Therefore: 20 respondents x 2 hours = 40 hours of annual burden for this collection, an increase of 4 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?*

TTB estimates that the annual costs to the Federal Government are:

Printing costs	\$ 0
Distribution costs	0
Clerical costs	322
Other Salary costs (review, supervisory, etc.)	2,009
<b>TOTAL COSTS</b>	<b>\$ 2,331</b>

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the free availability of TTB forms to the public on the TTB website (see <http://www.ttb.gov/forms/5000.shtml>.)

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

An adjustment to the number of respondents from 18 to 20 increases the total burden hours to 40. Also, the same information collection instrument that had previously been reported separately due to the type of "reporting obligation," is now being reported under a single information collection (IC). This adjustment does not change the currently approved burden, only combines it under a single IC.

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

Redacted versions of each TTB F 5640.2 submitted by a proponent is posted to the TTB website at <http://www.ttb.gov/fo/compromise.shtml>.

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 this information collection. By not displaying the expiration date of this collection on the related 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.
- (f) This is not a recordkeeping requirement.
- (i) No statistical survey methodology is involved.
- (j) See item 3 above.

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

This collection does not employ statistical methods.