

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0115

Information Collection Request Title:

Usual and Customary Business Records Relating to Wine, TTB REC 5120/1.

Information Collections Issued under this Title:

- TTB REC 5120/1, Usual and Customary Business Records Relating to Wine.

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 has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

The IRC at 26 U.S.C. 5555 provides that, among other things, every person liable for tax under chapter 51 of the IRC must keep such records, renders such statements, make such returns, and comply with such rules and regulations as the Secretary may prescribe. Particular to wine, the IRC at 26 U.S.C 5367 requires that proprietors of wineries and taxpaid wine bottling houses to keep such records as the Secretary of the Treasury may require by regulation, at 26 U.S.C 5369 provides that each proprietor of a winery or taxpaid wine bottling house shall take and report inventories as the Secretary of the Treasury may be regulation prescribe, and at 26 U.S.C. 5370 provides for the collection of tax on thefts and, in certain cases, voluntary destructions. In addition, the IRC at 26 U.S.C 5362 provides for the removal of wine free of tax, including for use in vinegar plants, and authorizes the Secretary of the Treasury to prescribe regulations on such removals.

Under these IRC provisions, various TTB regulations in 27 CFR Part 24, Wine, require wineries, taxpaid wine bottling houses, and vinegar plants to keep certain usual and customary business records relating to wine, including purchase invoices, internal records documenting the use of authorized materials and processes, and records related to processing, production, packaging, storing, shipping, and transfer operations.

TTB believes that regulated persons could not succeed in business without maintaining these types of records, which control the purchase and use of materials and ingredients, and document the production and tax payment of wine.

Accordingly, the following regulations in 27 CFR part 24 require the keeping of usual and customary business records relating to wine:

24.32, 24.77, 24.91, 24.96, 24.97, 24.136, 24.170, 24.180, 24.184, 24.197, 24.213, 24.226, 24.230, 24.231, 24.232, 24.233, 24.236, 24.237, 24.241, 24.249, 24.281, 24.282, 24.283, 24.284, 24.291, 24.292, 24.293, 24.294, 24.295, 24.300, 24.301, 24.302, 24.303, 24.304, 24.305, 24.306, 24.307, 24.308, 24.309, 24.310, 24.311, 24.312, 24.313, 24.314, 24.315, 24.316, 24.317, 24.318, 24.319, 24.320, 24.321, and 24.322.

TTB is issuing a proposed rule titled "Proposed Revisions to Wine Labeling and Recordkeeping Requirements" (Notice No. 160), which will amend 27 CFR 24.314 and thus will effect this information collection. If adopted, the proposed revision of that section would require proprietors to keep records substantiating certain information contained on the labels of certain wines currently covered by a certificate of exemption from label approval, where those wines are labeled with varietal (grape type) designations, type designations of varietal significance, vintage dates, or appellations of origin. In particular, the records would have to substantiate that the claims would be allowed under the standards for use of such claims under the regulations in 27 CFR part 4. However, since the keeping of records substantiating the information provided on wine labels, whether covered by certificates of exemption or by certificates of label approval, is a usual and customary business practice and would be done by proprietors with or without the TTB regulatory requirement, TTB does not believe that there would be any increase in the current burden associated with this information collection.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

These records are maintained by the regulated individual at the business premises and are routinely inspected by TTB personnel. The inspection of these records by TTB protects the revenue by ensuring appropriate payment of tax, and also ensures that wine is produced, packaged, stored, shipped, and transferred in accordance with Federal laws 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?

These records are maintained by the regulated industry members at their business premises and may be inspected by TTB personnel. The regulated industry members may keep the

required records in paper or electronic formats at their discretion. Where TTB regulations require records to be kept in a particular format, TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the collection and maintenance of required information as variances issued under 27 CFR 24.22.

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?

This information collection request requires records that are pertinent to each recordkeeper. 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?

We consider these recordkeeping requirements to be the minimum necessary to ensure compliance with TTB administered laws and regulations. Waiver or reduction of this recordkeeping requirement, simply because the respondent's business is small, could jeopardize the revenue.

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?

In the absence of this integrated system of records or less frequent collection of this information, TTB could not accurately verify a proprietor's Federal excise tax liability, which would pose jeopardy to the revenue. TTB also could not accurately determine a proprietor's compliance with the IRC provisions and the TTB regulations related to wine production.

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 regarding this information collection, TTB published a proposed rule titled "Proposed Revisions to Wine Labeling and Recordkeeping Requirements" (Notice No. 160) in the Federal Register on Wednesday, June 22, 2016, at 81 FR 40584.

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 for this information collection, which consists of records maintained by regulated industry members at their business premises.

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 disclosure is specifically authorized by the IRC.

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, which consists of records maintained by industry members at their business premises, contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in a government 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?*

This information collection involves usual and customary business records that would be kept by regulated industry members at their premises even without the TTB regulatory requirements to keep such records. Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden for all 10,970 current wine industry members required to keep these usual and customary business records is estimated to be one hour (represents a place holder not an actual estimate of burden).

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)?*

This information collection consists of usual and customary business records that a proprietor keeps at their premises as a normal part of doing business. Therefore, there is no cost to respondents associated with this collection.

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

There is no cost to the Federal Government for the maintenance of usual and customary business records by proprietors at their business premises.

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

As for program changes, TTB is proposing to amend 27 CFR 24.314, which, if adopted, would require proprietors to keep records substantiating certain information contained on the labels of certain wines currently covered by a certificate of exemption from label approval, where those wines are labeled with varietal (grape type) designations, type designations of varietal significance, vintage dates, or appellations of origin. In particular, the records would have to substantiate that the claims would be allowed under the standards for use of such claims under the regulations in 27 CFR part 4.

However, as for adjustments, since the keeping of records substantiating the information provided on wine labels, whether covered by certificates of exemption or by certificates of label approval, is a usual and customary business practice and would be done by proprietors with or without the TTB regulatory requirement, TTB does not believe that there would be any increase in the current burden associated with this information 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?

This information collection consists of usual and customary business records that regulated industry members keep at their business premises as a normal part of doing business. As such, there is no prescribed TTB form for this collection, and, therefore, there is no medium for TTB to display the OMB approval expiration date.

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.