

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0062

Information Collection Request Title:

Usual and Customary Business Records Relating to Denatured Spirits (TTB REC 5150/1).

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.

To prevent illegal diversion of denatured alcohol to taxable beverage use, the IRC, at 26 U.S.C. 5271-5275, imposes a system of permits, bonds, records and reports, and other requirements to control the industrial use of such alcohol, and the Secretary is authorized to issue regulations regarding these matters. Denatured spirits are regulated to prevent the illegal diversion of alcohol to taxable beverage use because it is possible to recover potable alcohol from denatured spirits and articles made with denatured spirits. Therefore, the IRC and TTB's implementing regulations require an application and permit to withdraw and use specially denatured spirits, and these regulations also require surety bonds, formulas, recordkeeping, reporting, and other operational procedures for the use of denatured alcohol.

The TTB regulations implementing the recordkeeping requirements regarding denatured alcohol are found in 27 CFR Part 20, Distribution and Use of Denatured Alcohol and Rum. In addition, recordkeeping requirements for denatured alcohol shipped to the United States from the U.S. Virgin Islands are found in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the U.S. Virgin Islands. The records included in this submission are usual and customary business records, such as purchase invoices and internal records controlling the flow of ingredients and materials through the manufacturing, packing, storage, and shipment process. Accordingly, the following regulatory requirements in 27 CFR parts 20 and 26 are consolidated in one submission covering usual and customary business records relating to denatured spirits and articles made with denatured spirits:

- § 20.95 Developmental samples of articles.
- § 20.142 Records of bulk conveyances.

- § 20.149 Records.
- § 20.163 Receipt and storage of specially denatured spirits.
- § 20.170 Physical inventory.
- § 20.171 Record of shipment.
- § 20.172 Records.
- § 20.180 Record of packages filled.
- § 20.192 Manufacturing record.
- § 20.202 Losses in transit.
- § 20.203 Losses on premises.
- § 20.212 Deposit in receiving tanks.
- § 20.216 Record of shipment.
- § 20.222 Destruction.
- § 20.231 Return.
- § 20.232 Reconsignment in transit.
- § 20.235 Disposition to another user.
- § 20.251 General.
- § 20.261 Records of completely denatured alcohol.
- § 20.262 Dealer's records of specially denatured spirits.
- § 20.263 User's records of specially denatured spirits.
- § 20.264 User's records and report of products and processes.

§ 26.296 Record of shipment (from the U.S. Virgin Islands to the United States).

All these records must be maintained for not less than 3 years after filing the report covering the operation.

Proposed Rule

On June 21, 2016, TTB issued a proposed rule titled "Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System" (Notice No. 159), which will amend the TTB regulations governing the importation of distilled spirits, wine, beer and malt beverages, tobacco products, processed tobacco, and cigarette papers and tubes. The proposed amendments are intended to clarify and streamline import procedures, and support the implementation of the International Trade Data System and the filing of import information electronically in conjunction with an electronic import filing with U.S. Customs and Border Protection (CBP). The proposed amendments include providing the option for importers to file import-related data electronically when filing entry or entry summary data electronically with CBP, as an alternative to the current TTB requirements that importers submit paper documents to CBP upon importation. Under the proposed rule, the information collection approval for many of these electronic submissions will be placed under OMB control number 1513-0064, Importer's Records and Reports (TTB REC 5170/1).

In the case of this information collection, 1513-0062, the proposed amendments to the regulations at 27 CFR § 26.296 will allow certain information relating to shipments from the U.S. Virgin Islands of completely denatured alcohol or products made with denatured spirits to be filed electronically with CBP at the time of filing the entry or entry summary, as appropriate. Also, the amendments clarify that, regardless of the method of filing, the record of shipment must be retained for not less than three years and must be made available to TTB or CBP upon request. As noted in the proposed rule, TTB will place the recordkeeping

requirement prescribed by § 26.296 under OMB control number 1513–0064, rather than 1513–0062. However, the estimated number of respondents for 1513–0062 (3,430) and the estimated average annual burden hours for each (one, for usual and customary business records) will remain unchanged.

Final Rule

TTB is issuing a Final Rule titled “Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System,” which will finalize, with minor clarifying changes not relevant to this information collection, the amendments proposed in Notice No. 159.

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 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 denatured spirits can be accounted for and are being used only for purposes authorized by law and regulations. TTB uses these records to protect the tax revenue and public safety by ensuring that spirits have not been diverted to beverage use.

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.

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 protect the revenue and 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 order to protect the revenue and public safety, this information collection helps ensure that denatured alcohol has not been diverted to beverage use. If these records were not maintained there would be a significant gap in the audit trail and it would be difficult or impossible for TTB to trace denatured alcohol transactions.

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 proposed rule titled "Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System" (Notice No. 159), in the Federal Register on Tuesday, June 21, 2016, at 81 FR 40404.

TTB received seven comments in response to the proposed rule. None of the comments specifically addressed this collection of information.

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 usual and customary business 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 tax-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 usual and customary business 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 3,430 respondents 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 respondent 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?

Under the final rule discussed above in Question 1, we are removing 27 CFR 26.296 from this information collection approval and placing it under OMB control number 1513-0064, Importer's Records and Reports (TTB REC 5170/1). However, since this change will not affect the number of respondents, responses, or estimated burden hours for 1513-0062, which consists of usual and customary records kept during the normal course of business, there are no adjustments 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.

(g) 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 medium for TTB to inform respondents of the information called for under 5 CFR 1320.8 (b)(3).

(i) No statistics are involved.

(j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.