

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0073

Information Collection Request Title:

Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback,
TTB REC 5530/2.

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.5001 imposes a Federal excise tax of \$13.50 per proof gallon on distilled spirits produced or imported into the United States. However, the IRC at 26 U.S.C. 5111-5114, allows manufacturers of certain products that are unfit for beverage purposes—medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume—to claim drawback (refund) of all but \$1.00 per proof gallon of the excise tax paid on the distilled spirits used in the production of such “nonbeverage products.” In addition, under those IRC sections, all persons claiming nonbeverage product drawback must, among other things, keep records documenting the nonbeverage use of the distilled spirits for which drawback is claimed and must make such records available for examination, subject to regulations prescribed by the Secretary.

Under those IRC authorities, TTB has issued regulations governing nonbeverage product drawback claims, which are contained in 27 CFR Part 17, Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products. Specific to this information collection requirement, the TTB regulations at 27 CFR 17.161-17.167, 17.168(b), 17.169-17.171, and 17.186 require manufacturers to keep source records that track the use of taxpaid distilled spirits used in the manufacture of nonbeverage products for which drawback will be claimed and that document the information provided in such claims. This includes, among other information, records regarding the distilled spirits received, excise taxes paid, recovered alcohol, receipt and usage of other ingredients (to validate formula compliance), inventories, when spirits were used, the quantity and kind used in each nonbeverage product, the quantity of intermediate products transferred to other plants, the disposition of each

nonbeverage product produced, and the purchasers of such products (except for retail sales). These regulations require nonbeverage drawback claimants to retain these records for not less than 3 years, but also allow TTB to require record retention for up to an additional 3 years when such retention is necessary to protect the revenue. In addition, the regulations require that these records be maintained at the premises where the distilled spirits in question are used to manufacture the subject nonbeverage products, and that the records be readily available for inspection by TTB during normal business hours.

This information collection is necessary to protect the revenue. The required supporting records allow TTB to verify the matters alleged in nonbeverage product drawback claims, which assists the Bureau in preventing the payment of fraudulent claims and the diversion of distilled spirits on which nonbeverage product drawback has been claimed to taxable beverage use.

(NOTE: This information collection requirement, which is approved under OMB control number 1513–0073, only concerns the records manufacturers must keep at their premises to support their nonbeverage product drawback claims. Manufacturers submit nonbeverage drawback claims to TTB on form TTB F 5620.8, Claim—Alcohol and Tobacco Taxes, which is approved under OMB control number 1513–0030, and on form TTB F 5154.2, Supporting Data for Nonbeverage Drawback Claims, which is approved under OMB control number 1513–0098.)

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?

The records supporting nonbeverage product drawback claims required under this information collection are used by TTB personnel during tax compliance examinations and/or audits to verify that all distilled spirits can be accounted for, that the tax on which drawback is claimed was in fact paid, and that drawback is paid only in the amount and for the purposes authorized by law. These examinations and/or audits are conducted with variable frequency, depending on the size and other characteristics of the claimant. By ensuring that fraudulent drawback claims are not made or are found, and that distilled spirits on which drawback has been paid have not been diverted to beverage use, Federal 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?

Under 27 CFR 17.161, TTB does not prescribe a format for the records kept under this information collection requirement. As such, respondents are free to use ordinary business records and automated, electronic, or other technological collection techniques or other forms of information technology, to keep and maintain the required information.

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?*

The information contained in the records kept under this information collection requirement is pertinent and specific to each nonbeverage product manufacturer's operations. As far as TTB can determine, similar information regarding the distilled spirits used in the manufacture of nonbeverage products and subsequently claimed as eligible for drawback of tax is not available elsewhere.

5. *If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?*

In order to protect the revenue, all nonbeverage product manufacturers claiming drawback on eligible products, regardless of size, are required by 27 CFR 17.161 to keep the required supporting records. This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. Any waiver or reduction of this 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?*

Under 27 CFR 17.161, ordinary business records may be used to satisfy this recordkeeping requirement. The required records contain the minimum amount of information necessary to maintain accountability over distilled spirits for which nonbeverage drawback is claimed. Not requiring these records or requiring less information regarding the use and disposition of such spirits would pose a jeopardy to the revenue by leaving a significant gap in the audit trail for nonbeverage product drawback claims.

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 (see 5 CFR 1320.5(d)(2)).

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 September 11, 2017, at 82 FR 42722. 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 information collection requirement.

10. *What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?*

TTB provides no assurance of confidentiality for this recordkeeping requirement, which consists of records kept by respondents at their business premises. These records may be inspected occasionally by TTB officers. As such, 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 that section. TTB maintains any information obtained from these records in secure file rooms with controlled access and/or password-protected computer systems.

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. Because this information collection involves records kept at the respondent's business premises, this recordkeeping requirement does not collect personally identifiable information (PII) in a Government-controlled 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?*

TTB estimates that 530 nonbeverage product manufactures are required to respond once annually to this on-going recordkeeping requirement documenting the information provided in nonbeverage drawback claims. TTB further estimates that each respondent will require an average of 21 hours per year to compile and record the required information. Therefore, TTB estimates the total annual burden hours associated with this recordkeeping requirement to be 11,130 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)?*

Because the information required under this recordkeeping requirement may, in large part, be satisfied by the keeping of ordinary business records, such as invoices, receipts, and production records, TTB believes that respondents do not bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement. As such, there is no annual cost to respondents associated with this information collection.

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

This information collection requirement consists of records maintained by respondents at their business premises. As such, there is no cost to the Federal Government associated with this information collection.

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

There are no program changes associate with this information collection requirement. As for adjustments, due to a change in agency estimates, TTB is increasing the annual estimated burden associated with this information collection from 501 respondents to 530, from 501 responses to 530, and from 10,521 hours to 11,130. This increase is due to growth in the number of nonbeverage product manufacturers subject to this information collection requirement.

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?*

There is no prescribed TTB form or collection instrument for this information collection, which consists of records kept at the respondent's place of business. 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.