

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0022**

Information Collection Title:

Volatile Fruit-Flavor Concentrate Manufacturers—Annual Report, and Usual and Customary Business Records (TTB REC 5520/1)

**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.

In general, chapter 51 of the IRC sets forth Federal excise tax rates and permit, bond, and other requirements related to alcohol products produced in or imported into the United States. Volatile fruit-flavor concentrates contain alcohol when they are produced by an evaporative process from the mash or juice of a fruit. However, the IRC at 26 U.S.C. 5511 provided that most provisions of chapter 51, including alcohol excise taxes, do not apply to the production of such concentrates if their manufacturers meet certain conditions and file applications, render reports, keep records, and meet the other regulatory requirements prescribed by the Secretary as necessary for the protection of the revenue.

Under the authority of 26 U.S.C. 5511, TTB has issued regulations regarding the production of volatile fruit-flavor concentrates, which are codified in 27 CFR part 18. Among other things, these regulations require such manufacturers to keep certain records and submit an annual summary report based on those records. The collected information is necessary to protect the revenue and ensure that concentrate manufacturers are operating in compliance with Federal law and regulations. The recordkeeping and reporting requirements contained in this information collection request are described below:

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

The TTB regulations in 27 CFR part 18 require manufacturers of volatile fruit-flavor concentrates to keep certain usual and customary business records that document the production, removal, transfer, and use of such concentrates and the fruit juice or mash from

which they are produced. These records may include, at the manufacturer's preference, accounting books, bills of lading and other shipping records, commercial invoices, production records, and other similar documents. The regulations requiring the keeping of such records are: 27 CFR 18.51(b), record of processing materials used; §§ 18.54(d), 18.55, 18.62, and 18.63, records of transfers of concentrates or fruit juice and mash; and § 18.56(b), records related to receipt of returned or transferred concentrate.

Section 18.61 requires volatile fruit-flavor concentrate manufacturers to maintain the required records and reports (see below) on or convenient to their plants, available for inspection by the appropriate TTB officers during business hours. In addition, § 18.61 requires these manufacturers to retain the required records and reports for 3 years from the date prepared or from the date of the last entry, whichever is later.

#### TTB F 5520.2, Annual Report of Concentrate Manufacturer

The TTB regulations at 27 CFR 18.65 require volatile fruit-flavor concentrates manufacturers to submit an annual summary report on form TTB F 5520.2, Annual Report of Concentrate Manufacturer. Based on data contained in the required records, this report accounts for all concentrates produced, removed, transferred, and used on premises during a given calendar year.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application Systems.

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

As noted above, while volatile fruit-flavor concentrates contain alcohol when produced, under the IRC at 26 U.S.C. 5511, they are not subject to Federal alcohol excise tax and most other provisions of chapter 51 of the IRC if their manufacturers met the described conditions and the regulatory requirements prescribed by the Secretary. To protect the revenue, TTB personnel examine the required records and annual reports during field audits or compliance inspections to verify that nontaxed volatile fruit-flavor concentrates have not been diverted to beverage use, which is taxable. In addition, TTB personnel examine the required records and reports to ensure a manufacturer's operations are in compliance with relevant Federal statutes and TTB 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?*

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. Currently, manufacturers may keep the required records in electronic formats and systems of their choosing. In addition, the annual concentrate manufacturer's report form, TTB F 5520.2, is available for free as a fillable, printable form on the TTB website at <https://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 merely require the maintenance of usual and customary records kept during the normal course of business and the submission of one annual report based on those records. As far as TTB can determine, similar information regarding the operations of volatile fruit-flavor concentrate plants is not available elsewhere.

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

As authorized by the IRC at 26 U.S.C. 5511, all manufacturers of volatile fruit-flavor concentrates, regardless of size, are required by the TTB regulations to keep certain usual and customary business records related to the manufacture of such products and to make an annual summary report on concentrates produced, used, transferred, and removed. Because these concentrates contain alcohol not subject to excise tax and could be diverted to taxable beverage use, TTB considers these recordkeeping and annual reporting requirements to be the minimum necessary to protect the revenue. As such, these regulatory standards cannot be reduced based on 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?*

This information collection requires the keeping of usual and customary business records and the submission of an annual summary report concerning the manufacture of volatile fruit-flavor concentrates, which contain untaxed alcohol that could be diverted to taxable beverage use. As such, TTB considers these requirements to be the minimum necessary to protect the revenue. Therefore, TTB believes that 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? (See 5 CFR 1320.5(d)(2).)*

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 regarding this information collection in the Federal Register on January 2, 2018, at 83 FR 205. 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 for the required records or annual report. 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 that section. Respondents maintain control of the required records, while TTB maintains its copy of the required annual report in secure file rooms. Data from such reports also may be kept in password-protected TTB computer systems with controlled access.

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. In addition, this information collection does not collect personally identifiable information (PII) in an 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?*

Based on recent data, TTB estimates that there are 55 respondents to this information collection, each making one annual response, for a total of 55 responses. As for this information collection's estimated annual total burden, per 5 CFR 1320.5(b)(2), the keeping of usual and customary business records imposes no burden on respondents. Using those usual and customary business records, respondents annually complete one TTB F 5520.2, Annual Report of Concentrate Manufacturer, which TTB estimates takes each of the 55 respondents 20 minutes to complete. Therefore, the estimated total annual burden for this information collection is 18 hours.

(55 respondents x 1 annual response = 55 annual responses x 20 minutes per response = 18 annual burden 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 annualized cost to respondents associated with this collection. The information submitted by respondents on TTB F 5520.2 is gathered from usual and customary records kept during the normal course of business.

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

Estimates of the annual cost to the Federal Government associated with this information collection are:

Clerical costs	\$ 83.00
Other Salary costs (review, supervisory, etc.)	\$ 325.00
<b>TOTAL COSTS</b>	<b>\$ 408.00</b>

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

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

There are no program changes associated with this information collection. As for adjustments, due to a decrease in the number of volatile fruit-flavor concentrate manufacturing plants, TTB is decreasing the estimated number of annual respondents and responses for this information collection from 80 to 55, and is decreasing its estimated total annual burden hours from 27 to 18.

In addition, for clarity and consistency, TTB is revising the title of this information collection request from "Annual Report of Concentrate Manufacturers, and Usual and Customary Business Records of Volatile Fruit-Flavor Concentrate Manufacturers, TTB REC 5520/1" to "Volatile Fruit-Flavor Concentrate Manufacturers—Annual Report, and Usual and Customary Business Records (TTB REC 5520/1)."

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?*

TTB will display the expiration date of OMB approval for this information collection on the annual report form, TTB F 5520.2. The required usual and customary records are kept by respondents at their place of business, and, as such, there is no medium for TTB to display the expiration date for OMB approval on the recordkeeping portion of this collection.

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.