

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0006

Information Collection Title:

Volatile Fruit-Flavor Concentrate Plants—Applications and Related Records (TTB REC 5520/2).

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.

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 provides 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.

Therefore, 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. To protect the revenue, these regulations include various volatile fruit-flavor concentrate plant application and recordkeeping requirements, which are described below:

TTB F 5520.3, Registration of Volatile Fruit-Flavor Concentrate Plant

The TTB regulations at 27 CFR 18.21 require persons who desire to manufacture volatile fruit-flavor concentrates to submit and receive approval of a registration application for their plant using form TTB F 5520.3. Section 18.24 describes the data required on the application, § 18.25 describes the organizational documents required with the application, and § 18.27 provides that TTB may require additional information to support a registration application. The information collected on TTB F 5520.3 and the attached documents identifies a volatile fruit-flavor concentrate manufacturer, their principle place of business,

the plant's location, and the individuals who own and control the business. In addition, the information provided on TTB F 5520.3 regarding a plant's distilling equipment also satisfies the IRC's statutory and TTB's regulatory requirements to register stills; see 26 U.S.C. 5179 and 27 CFR 18.23, respectively.

In addition, §§ 18.31 through 18.38 require a concentrate manufacturer to submit an amended registration application using TTB F 5520.3 when there are changes to their plant's name, location, control, or ownership, or if the manufacturer permanently discontinues concentrate operations at the plant. Such changes also may require the submission of amended organizational documents.

Letterhead Applications Related to Volatile Fruit-Flavor Concentrate Plants

Other 27 CFR part 18 regulations require volatile fruit-flavor concentrate manufacturers to submit letterhead applications regarding certain matters not covered by a plant's registration application form. Section 18.13(b) requires applications to use methods and procedures other than those set out in the regulations, and § 18.14(b) requires applications for emergency variations from specified regulatory requirements. Section 18.22(b) concerns applications to conduct another business on plant premises, §§ 18.39 and 18.40 require, respectively, applications to alternate a concentrate plant with a distilled spirits plant or a bonded wine cellar, and § 18.52(b) concerns requests for classification of a concentrate as fit or unfit for beverage use. These letterhead applications allow TTB to determine if a concentrate plant is being operated in conformity with Federal law and the TTB regulations.

TTB REC 5520/2, Records Related to Volatile Fruit-Flavor Concentrate Plant Applications

As for the recordkeeping requirements contained under this information collection, 27 CFR 18.17 requires volatile fruit-flavor concentrate manufacturers to maintain an ongoing file containing copies of all approved plant registration and letterhead applications and their supporting documents on or convenient to the plant premises, available for inspection by TTB officers. In addition, § 18.42 requires a record of all alternations of a concentrate plant with a distilled spirits plant or a bonded wine cellar.

This information collection is aligned with —

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

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. However, because these concentrates could be diverted to use as taxable alcohol beverages, TTB uses the information collected on the registration application forms, letterhead applications, and related application record file to protect the revenue and ensure that concentrate plants are operated in conformity with Federal law 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?*

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, TTB F 5520.3 is available free to the public on the TTB website at as a fillable-printable form (see <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?*

The applications and related record file required under this collection request contain information pertinent and unique to each respondent and applicable to the specific issue of registering and operating a volatile fruit-flavor concentrate plant. As far as TTB is able to 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?*

As required by the IRC at 26 U.S.C. 5511, all manufacturers of volatile fruit-flavor concentrates, regardless of their size, are required to file applications, keep records, and meet certain other requirements as the Secretary may by regulation prescribe as necessary for the protection of the revenue. Also, all entities, regardless of size, are required by the IRC at 26 U.S.C. 5179 to register their stills. Waiver or reduction of these requirements, 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?*

Volatile fruit-flavor concentrates generally have a high alcohol content and are subject to Federal excise tax if they are not produced and removed in accordance with Federal law and the TTB regulations. As such, TTB must be able to identify the proprietor and location of such plants. If TTB did not collect the required information, it would have no means of identifying persons manufacturing volatile fruit-flavor concentrates, which would jeopardize the revenue. In addition, because respondents submit the required information only as necessary to comply with Federal law and the TTB regulations, the frequency of this collection cannot be reduced.

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).)*

Operators of volatile fruit-flavor concentrate plants are required to keep the records required under this information collection longer than 3 years, which is a special circumstance under 5 CFR 1320.5(d)(2)(iv). As required by 27 CFR 18.17, operators of such plants must maintain an ongoing file of all approved applications on or convenient to the plant premises,

and this file must be available for inspection by the appropriate TTB officers. The keeping of this application record file is necessary to protect the revenue and to ensure that volatile fruit-flavor concentrate plants are operated in accordance with applicable Federal laws and TTB regulations.

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 information 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 request. TTB notes that TTB F 5520.3 contains a Privacy Act Information statement listing the authority and purpose for, the routine uses of, and the effects of not supplying the requested information. In addition, 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 these records in secure file rooms and 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. A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for that system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015 at 80 FR 4637. TTB’s PIAs are available on the TTB website at <https://www.ttb.gov/foia/pia.shtml>.

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 an average of one annual response. TTB estimates that completing a volatile fruit-flavor concentrate plant registration or letterhead application, including

supplying any required organizational or supporting documents) and keeping the related records requires 2 hours (1 hour for reporting and 1 hour for recordkeeping). Therefore, TTB estimates the total annual burden for this collection is 110 hours.

(55 respondents x 1 annual response = 55 annual responses x 2 hours per response = 110 hours of annual 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)?*

TTB believes there is no annualized cost to respondents associated with this information collection. The required application information is readily available to respondents and is provided only on an as-needed basis, and the required records are merely copies of those applications and their related supporting documents.

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:

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| Clerical costs | \$ 83.00 |
| Other Salary costs (review, supervisory, etc.) | \$ 650.00 |
| TOTAL COSTS | \$ 733.00 |

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 plants, TTB is decreasing the estimated number of annual respondents and responses for this information collection from 80 to 55, and is decreasing the estimated total annual burden hours from 160 to 110.

In addition, for clarity and consistency, TTB is revising the title of this information collection request from "Applications—Volatile Fruit-Flavor Concentrate Plants, TTB REC 5520/2" to "Volatile Fruit-Flavor Concentrate Plants—Applications and Related Records (TTB REC 5520/2)."

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 TTB F 5520.3, Registration of Volatile Fruit-Flavor Concentrate Plant. However, there is no medium for TTB to display that date on the respondent-generated letterhead applications and records required under this information collection request.

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.