

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0073

**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 (the Secretary) 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 up to \$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 keep records documenting the nonbeverage use of the distilled spirits for which they will claim drawback, and they must make such records available for examination, subject to regulations issued 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 certain source records that track the use of taxpaid distilled spirits in the manufacture of nonbeverage products for which they will claim drawback. The required records must document the amount of distilled spirits received and used in each nonbeverage product, the excise taxes paid, and alcohol recovered. Other required records concern the receipt and use of other ingredients (to validate formula compliance), the quantity of intermediate products transferred to other plants, the disposition of the nonbeverage products produced, and the purchasers of such products (except for retail sales). Additionally, the regulations require nonbeverage drawback claimants to retain those records for not less than 3 years at the premises where they used the distilled spirits

in question to manufacture the subject nonbeverage products, and they must make those records available for TTB inspection during normal business hours.

This information collection is necessary to protect the revenue. The required records allow TTB to verify the data contained in nonbeverage product drawback claims, which assists the Bureau in preventing the payment of incorrect and fraudulent claims, as well as the diversion of distilled spirits on which nonbeverage product drawback has been claimed to taxable beverage use.¹

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?

TTB uses the records required to support nonbeverage drawback claims to protect the revenue. During field inspections or tax audits, TTB personnel use the required records to verify that all distilled spirits used in nonbeverage products can be accounted for, that the excise 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. Such verification ensures that TTB detects incorrect or fraudulent drawback claims, and that distilled spirits on which drawback has been paid have not been diverted to taxable 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?

Under 27 CFR 17.161, TTB does not prescribe a format for the records kept under this information collection requirement, and respondents may use usual and customary business records, as well as and recordkeeping technologies of their choice, 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 and drawback claims. As far as TTB can determine, 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?

¹ This information collection requirement, which is approved under OMB control number 1513-0073, only concerns the records that manufacturers keep at their premises to support their nonbeverage product drawback claims. Manufacturers submit nonbeverage drawback claims to TTB using form TTB F 5620.8, Claim—Alcohol and Tobacco Taxes, which is approved under OMB control number 1513-0030, and form TTB F 5154.2, Supporting Data for Nonbeverage Drawback Claims, which is approved under OMB control number 1513-0098.

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. Respondents may use usual and customary records kept during the normal course of business, such as invoices, production records, and sales receipts, to keep the required information. As such, TTB considers this recordkeeping requirement to be the minimum necessary to prevent payment of incorrect or fraudulent drawback claims and prevent diversion of distilled spirits on which drawback has been paid to taxable beverage use. Any waiver or reduction of this recordkeeping requirement, simply because the respondent's business is small, would 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?

TTB considers this recordkeeping requirement to be the minimum necessary to allow for the auditing of nonbeverage product drawback claims. Verification of such drawback claims allows TTB to detect incorrect or fraudulent drawback claims and prevent diversion of distilled spirits on which drawback has been paid to taxable beverage use. As such, elimination or less frequent conduct of this as-needed recordkeeping requirement would jeopardize 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.

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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on November 3, 2020, at 85 FR 69680. 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 specific assurance of confidentiality for this recordkeeping requirement, which consists of records kept by respondents at their business premises. If TTB inspects such records, 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.

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 by respondents at their 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?

Estimated Respondent Burden: Based on recent data, TTB estimates that 615 nonbeverage product manufacturers respond will respond once annually to this on-going recordkeeping requirement, resulting in 615 total responses. Because the required information is largely contained in usual and customary business records, TTB estimates that each response will require an average of 1 hours per year to complete. Therefore, the estimated total annual burden for this recordkeeping requirement is 615 hours.

Estimated Respondent Labor Costs: TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:

Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback, TTB REC 5530/2				
NAICS 312000 – Beverage Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour² = \$29.59				
Avg. Time / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
1 hour	1	\$29.59	615	\$18,197.85

Respondent record retention: Under 27 CFR 17.170, respondents must maintain the required records for at least 3 years, and must make those records available for TTB inspection during normal business hours.

² Private Sector Fully-loaded Labor Rate is calculated as hourly wage x 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations (43-0000) is \$29.59 (\$20.55 in wages plus \$9.04 in benefit costs). See the Bureau of Labor Statistics website at https://www.bls.gov/oes/current/naics4_312100.htm.

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 keeping of usual and customary business records such as purchase, production, and sales records largely satisfies this information collection requirement, 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 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 associated with this information collection at this time. As for adjustments, due to a change in agency estimates, TTB is increasing the estimated annual burden associated with this information collection from 530 respondents and responses to 615 due to growth in the number of nonbeverage product manufacturers subject to this information collection requirement. However, also due to a change in agency estimates, TTB is reducing the estimated annual per-respondent burden for this information collection from 21 hours to 1 hour. Specifically:

- TTB has determined that respondents largely meet this information collection requirement through the keeping of usual and customary records such as purchase invoices, production records, and sales receipts, which respondents keep during the normal course of business, regardless of any regulatory requirement to do so. Per the OMB regulations at 5 CFR 1320.3(b)(2), the keeping of such usual and customary records does not place an additional burden on respondents.
- TTB has determined that the 21 hours of per-respondent burden previously reported for this information collection duplicated, in part, burden hours associated with the filing of non-beverage drawback claims, which is approved under other OMB control numbers. Respondents file such claims using forms TTB F 5620.8, Claim—Alcohol and Tobacco Taxes, approved under OMB No. 1513–0030, and form TTB F 5154.2, Supporting Data for Nonbeverage Drawback Claims, approved under OMB No. 1513–0098.

Therefore, TTB is reducing the estimated total burden associated with this information collection from the 11,130 hours previously reported to a revised total of 615 hours.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

TTB will not publish the results of this information 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. As such, there is no medium for TTB to display the collection's 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 information collection does not employ statistical methods.