

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0022

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 (the Secretary) delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

In general, chapter 51 of the IRC sets out excise tax rates and permit, bond, and other Federal requirements related to alcohol products produced in or imported into the United States. While volatile fruit-flavor concentrates contain alcohol when produced by an evaporative process from the mash or juice of a fruit, the IRC at 26 U.S.C. 5511 exempts manufacturers of such products from most provisions of chapter 51, including alcohol excise taxes, if the manufacturer meets certain conditions. These conditions include filing applications and reports, keeping records, and complying with the regulations prescribed by the Secretary as necessary to protect 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, display certain label information, and submit an annual summary report of their activities. TTB uses the collected information to ensure that the tax and other provisions of the IRC applicable to concentrate manufacturers are appropriately applied and that such manufacturers operate in compliance with the TTB regulations.

Specifically, the TTB regulations at 27 CFR 18.51(b), 18.54(d), 18.56(b), 18.62, and 18.63 require manufacturers of volatile fruit-flavor concentrates to keep certain usual and customary business records documenting the production, removal, transfer, and use of such products (TTB REC 5520/1). At the manufacturer's preference, the required records may include accounting books, bills of lading and other shipping records, commercial invoices, production records, and other such documentation. In addition, § 18.55 requires manufacturers to place certain usual and customary label information on the containers of

concentrates that they produce, such as the identity and volume of the product and the name and address of the manufacturer. Furthermore, based on the data contained in the required usual and customary business records, § 18.65 requires volatile fruit-flavor concentrate manufacturers to submit an annual report using form TTB F 5520.2, Annual Report of Concentrate Manufacturer. This report provides a summary of all such concentrates produced, removed, transferred, and used on premises during a given calendar year. Under § 18.61, concentrate manufacturers must retain the required records, including copies of the annual report, for 3 years, on or convenient to their plants and available for inspection by the appropriate TTB officers during business hours.

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?

TTB uses the collected information to ensure that the tax and other provisions of the IRC applicable to volatile fruit-flavor concentrate manufacturers are appropriately applied and that concentrate manufacturers operate in compliance with the 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, concentrate 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 at no cost on the TTB website as a fillable-printable form; see <https://www.ttb.gov/forms>.

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 usual and customary business records, labels, and annual summary report required under this collection contain information regarding the production of volatile fruit-flavor concentrates that are unique to each respondent. 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 authorized by the IRC at 26 U.S.C. 5511, all manufacturers of volatile fruit-flavor concentrates, regardless of their size, are required to keep certain usual and customary business records and, based on those records, to submit an annual summary report of their operations. Because such concentrates contain untaxed alcohol tax that could be diverted to taxable beverage use, TTB considers these recordkeeping and reporting requirements to

be the minimum necessary to protect the revenue. As such, TTB cannot reduce these regulatory standards 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?*

Because volatile fruit-flavor concentrates contain untaxed alcohol, TTB considers this information collection to be the minimum necessary to detect diversion of such products to taxable beverage use and ensure that the tax and other provisions of the IRC applicable to volatile fruit-flavor concentrates are appropriately applied. As such, TTB believes that discontinuance or less frequent collection of the required information 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 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 public, TTB published a "60-day" comment request notice regarding this information collection in the Federal Register on June 15, 2021, at 86 FR 31818. 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?*

While TTB provides no specific assurance of confidentiality for this information collection, 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 that section specifically authorizes such disclosure. Respondents maintain control of the required business records, while TTB maintains its copy of the required annual report 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. 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?

Estimated Respondent Burden: Based on recent data, TTB estimates that there are 55 respondents to this information collection, each making one annual response. The keeping of usual and customary businesses records and placing of usual and customary label information on product containers imposes no additional burden on respondents per 5 CFR 1320.5(b)(2). For the required annual report, TTB estimates that the 55 respondents each require 20 minutes to complete the report form, TTB F 5520.2, resulting in an estimated total annual burden of 18 hours for this information collection.

Estimated Respondent Labor Costs: The respondent labor costs for this information collection are limited to the preparation and filing of the required annual summary report, which TTB estimates as follows:

Respondent Labor Costs: NAICS 312100 – Beverage Manufacturing – Office & Administrative Support Occupations*				
Fully-loaded Labor Rate ¹	Avg. Time / Response	Labor Cost per Response & Respondent	Total Responses	Total Labor Costs
\$30.50	20 minutes (0.333 hrs.)	\$10.16	55	\$558.80

Respondent Record Retention: As required by 27 CFR 18.61, concentrate manufacturers must maintain the required business records and copies of their annual reports for a period of 3 years, on or convenient to their plants and available for inspection by the appropriate TTB officers during business 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)?

TTB believes there are no annualized start-up or ongoing operation or maintenance costs to respondents for this information collection, which largely consists of usual and customary records kept during the normal course of business and one annual report based on those

¹ The Fully-loaded Labor Rate = Hourly wage rate + benefit costs, which, for the private sector, is calculated as hourly wage x 1.44. 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 \$30.50 (\$21.18 for hourly wages plus \$9.32 for benefit costs); see https://www.bls.gov/oes/current/naics4_312100.htm.

records. For the annual report, TTB estimates mailing costs to be no more than \$2.00 per response. Therefore, for 55 respondents, each making one response, TTB estimates annual mailing costs for this collection to be \$2.00 per respondent, and \$110.00 in total.

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

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. TTB estimates the annualized labor costs to the Federal Government for this information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0022*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$35.13	0.1 hour	\$3.51	55	\$193.05
GS-13, Step 5, Supervisor	\$91.79	0.5 hour	\$45.90		\$2,524.50
TOTALS		0.6 hour	\$49.41	55	\$2,717.55

* Labor costs rounded to the nearest whole cent.

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 accounting for respondent mailing costs of \$2.00 per year to submit one annual report to TTB on form TTB F 5520.2.

Changes to TTB F 5520.2: In the form's Paperwork Reduction Act Notice, TTB is updating the position title of the staff member who receives public comments on the burden estimates associated with its information collections.

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?*

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$35.13 (\$21.55 in wages plus \$13.58 in benefit costs); and (2) GS-13, step 5 = \$91.79/hour (\$56.31 in wages plus \$35.48 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf.

As a cost saving measure for both TTB and the public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5520.2. By not displaying that date on the form, TTB will not have to update the form each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

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.