

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0006

**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 (the Secretary) has 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 the filing of applications and reports, keeping records, registering stills as required by 26 U.S.C. 5179, and complying with the regulatory requirements prescribed by the Secretary as necessary to protect the revenue.

Therefore, under the authority of 26 U.S.C. 5511 and 5179, TTB has issued regulations regarding the production of volatile fruit-flavor concentrates, which are codified in 27 CFR part 18. These regulations include various volatile fruit-flavor concentrate plant application and recordkeeping requirements, as described below. 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 18.21 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, Registration of Volatile Fruit-Flavor Concentrate Plant. Section 18.24 describes the data required on an application, § 18.25 describes the organizational documents required with an 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 the

manufacturer, their principle place of business, their plant's location, and the individuals who own and control the business. Applicants also use TTB F 5520.3 to register their plant's stills, as required by § 18.23. In addition, §§ 18.31 through 18.38 require a 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.

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 manufacturers to submit letterhead 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.

As for the recordkeeping requirements contained under this information collection, TTB REC 5520/2, the TTB regulations at § 18.17 requires concentrate manufacturers to maintain a file containing copies of all approved plant registration and letterhead applications and their supporting documents. Manufacturers must maintain this file on or convenient to their 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?

In general, while volatile fruit-flavor concentrates contain potable alcohol, under 26 U.S.C. 5511, such products are not subject to alcohol excise tax and manufactures of such products are not subject to most provisions of chapter 51 of the IRC if they meet certain conditions and comply with regulations issued by the Secretary. As such, 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.

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>).

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 contain information 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 prescribes by regulation. In addition, the IRC at 26 U.S.C. 5179 requires all entities, regardless of size, to register their stills. Waiver or reduction of these requirements, simply because a respondent's business is small, would jeopardize TTB's ability to ensure that the tax and other provisions of the IRC applicable to concentrate manufacturers are appropriately applied.

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 information collection to be the minimum necessary to ensure that manufacturers of volatile fruit-flavor concentrates are qualified under the IRC to engage in such operations, and ensure that the tax and other provisions of the IRC applicable to such manufacturers and products are appropriately applied. Because such concentrates contain untaxed alcohol that could be diverted to beverage use, which is subject to tax, less frequent collection of the required information or discontinuance of this collection would jeopardize the revenue and TTB's ability to ensure compliance with the relevant IRC provisions.

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 record file is necessary to protect the revenue and to ensure that volatile fruit-flavor concentrate manufacturers operate their plants 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 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 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, TTB does not provide a specific assurance of confidentiality for this information collection. 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 that section specifically authorizes such disclosure. TTB maintains information submitted to it in secure file rooms and computer systems with controlled access. Respondents maintain the required record file at their business premises.

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. TTB has conducted a Privacy Impact Assessment (PIA) for the information collected under this request as part of the Tax Major Application System. TTB has issued a Privacy Act System of Records notice (SORN) for that system under “Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001–Regulatory Enforcement System of Records,” published in the Federal Register on February 10, 2021, at 86 FR 8988. TTB’s PIAs are available on the TTB website at <https://www.ttb.gov/foia/privacy-impact-assessments>.

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 an average of one annual response. TTB further estimates that each response requires 1 hour for reporting and 1 hour for recordkeeping, for a total of 2 hours per response. Therefore, TTB estimates that 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).

Estimated Respondent Labor Costs: Given that each respondent makes one response per year, TTB estimates the annual per-respondent and total respondent labor costs for this information collection request 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	2.0 hours	\$61.00	55	\$3,355.00

Respondent Record Retention: As required by 27 CFR 18.17, operators of volatile fruit-flavor concentrate 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.

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 occasional information collection. TTB estimates annual respondent mailing costs to be no more than \$10.00 per response. Given that 55 respondents make one response annual response, TTB estimates annual mailing costs to be \$10.00 per respondent, and \$550.00 in total for this information collection.

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 request as follows:

Labor Costs for Personnel at TTB’s National Revenue Center in Cincinnati, Ohio, for OMB No. 1513–0006*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs

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.

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.

GS-5, Step 5, Clerk	\$35.13	0.1 hour	\$3.51	55	\$193.05
GS-13, Step 5, Supervisor	\$91.79	1 hour	\$91.79		\$5,048.45
TOTALS		1.1 hours	\$95.30	55	\$5,241.50

* 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 \$10.00 per year to submit an application (on TTB F 5520.3 or letterhead) and its attached supporting documents to TTB.

Changes to Form: On TTB F 5520.3, Registration of Volatile Fruit-Flavor Concentrate Plant, TTB is correcting typographical errors, and, in the form's Paperwork Reduction Act Notice, 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?*

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 5520.3. 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.