

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0115**

**Usual and Customary Business Records Relating to Wine, TTB REC 5120/1.**

**Changes Since Last Approval**

Changes made to the Supporting Statement since this collection's last approval:

- In Question 1, TTB explains the proposed rulemaking affecting this information collection request.
- In Question 8, TTB states that it will seek public comment on the proposed changes to this information collection request via publication of the described proposed rule in the Federal Register.
- In Question 15, TTB explains the program changes to this information collect request resulting from the proposed rulemaking described in Question 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) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

The IRC at 26 U.S.C. 5041 imposes a per gallon Federal excise tax of varying rates on six classes of wine, while 26 U.S.C. 5362 provides for the removal of wine free of tax in certain circumstances, including for use in vinegar plants, all under regulations issued by the Secretary.<sup>1</sup> Specific to this information collection request, the IRC at 26 U.S.C. 5367 requires that proprietors of wineries and taxpaid wine bottling houses keep records as the Secretary requires by regulation, while 26 U.S.C. 5555 requires every person liable for any

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<sup>1</sup> Per 26 U.S.C. 5041(b), the six wine excise tax classes are: (1) Still wines of not more than 16 percent alcohol by volume (ABV), (2) Still wines of more than 16 and not more than 21 percent ABV, (3) Still wines of more than 21 and not more than 24 percent ABV, (4) Champagne and other (naturally) sparkling wines, (5) Artificially carbonated wines, and (6) Hard cider.

tax under chapter 51 of the IRC to keep records, render statements and make returns as the Secretary prescribes by regulation.

Under the authority of those IRC provisions, various TTB regulations in 27 CFR Part 24, Wine, require wine premises (bonded wine cellars, bonded wineries, and taxpaid wine bottling houses), and vinegar plants to keep certain usual and customary business records relating to wine. These include, among other things, records regarding the purchase and use of authorized materials and processes, and records related to the production, packaging, storing, shipping, and transfer of wine. Specifically, the following regulations in 27 CFR part 24 require the keeping of usual and customary records relating to wine:

24.31, 24.32, 24.54, 24.65, 24.75, 24.77, 24.91, 24.96, 24.97, 24.136, 24.140, 24.170, 24.176, 24.180, 24.184, 24.197, 24.213, 24.215, 24.226, 24.230, 24.231, 24.232, 24.233, 24.237, 24.241, 24.243, 24.245, 24.249, 24.251, 24.252, 24.255, 24.268, 24.272, 24.281, 24.282, 24.283, 24.284, 24.291, 24.292, 24.293, 24.294, 24.295, 24.300, 24.301, 24.302, 24.303, 24.304, 24.305, 24.306, 24.307, 24.308, 24.309, 24.310, 24.311, 24.312, 24.313, 24.314, 24.315, 24.316, 24.317, 24.318, 24.319, 24.320, 24.321, and 24.322.

TTB believes that wine industry members could not succeed in business without keeping the usual and customary business records required under those regulations. TTB uses the collected information to protect the revenue and ensure compliance with Federal laws and regulations. The required records allow TTB to verify that respondents pay the appropriate Federal wine excise tax rate and amount and that respondents produce, package, store, ship, and transfer wine in accordance with applicable laws and regulations.

This information collection is aligned with —

- *Line of Business/Sub-function:* General Government/Taxation Management.
- *IT Investment:* None.

#### Modernization of Permit Application Requirements for Wine Premises Notice of Proposed Rulemaking

In a proposed rule titled “Modernization of Permit Application Requirements for Wine Premises,” TTB is proposing deregulatory amendments to its regulations to streamline the requirements for an application to establish and operate a wine premises and to relax reporting requirements associated with certain changes to the business or operations of a wine premises proprietor. The proposed amendments are intended to reduce the overall respondent burden associated with OMB No. 1513–0009, Application to Establish and Operate Wine Premises; and Wine Bond. In addition, certain proposed amendments will also effect OMB No. 1513–0057, Letterhead Applications and Notices Relating to Wine (TTB REC 5120/2), and this information collection request, OMB No. 1513–0115, Usual and Customary Business Records Relating to Wine (TTB REC 5120/1).

The proposed regulatory amendments to 27 CFR part 24 are a result of TTB's evaluation of its permit and registration application requirements and consideration of relevant public comments submitted to the Treasury Department in response to its request for information concerning regulations that could be eliminated, modified, or streamlined. TTB believes the

proposed regulatory amendments will significantly reduce the time needed to complete a new or amended wine premises application and will provide proprietors with flexibilities regarding certain changes to wine premises operations and record maintenance.

In relation to this information collection request, OMB No. 1513–0115, TTB generally requires wine premises proprietors to maintain records required under 27 CFR part 24 at their wine premises. However, under current TTB regulations, proprietors can request to maintain those records at an off-premises location by submitting a letterhead application to do so under 27 CFR 24.22, Alternate method or procedure, as approved under OMB No. 1513–0057. Such letterhead applications must be approved by TTB before the proprietor can begin to maintain records at the specified off-premises location.

TTB notes that applications to approve off-premises record maintenance locations are among the most common alternate procedure requests made by wine premises proprietors. As such, TTB is proposing amendments to § 24.300, in paragraph (e), to allow proprietors to maintain required records at a location other than the wine premises by merely submitting a letterhead notification to TTB reporting the alternate location. Such letterhead notices do not require TTB approval but merely inform TTB of the reported action or operation. The proposed amendments also provide that required records must still be made available at the wine premises upon TTB request but that copies of such records will generally satisfy this requirement (consistent with current TTB policy, “copies” includes electronic copies). The proposed letterhead notice requirement in amended § 24.300(e) will be accounted for under OMB No. 1513–0057 while the overall recordkeeping requirements of § 24.300 will remain accounted for under OMB No. 1513–0115.

The proposed amendments to § 24.300 will not affect the estimated burdens of OMB No. 1513–0057 or OMB No. 1513–0115. TTB believes that the number of annual respondents making alternate record maintenance location notifications to TTB will not change, and the per-response burden will not change as that burden is the same for letterhead applications and letterhead notifications—0.5 hour per response. However, wine premises proprietors desiring to use off-premises record maintenance locations will no longer have to await TTB approval to do so as they will merely have to notify TTB of the alternate location. In addition, TTB is clarifying that copies of records, including electronic copies, may be provided if TTB officers request to view a proprietor’s records at their wine premises.

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

This information collection requirement consists of usual and customary business records kept by wine industry members during the normal course of business. TTB personnel routinely examine these records during audits and field inspections. Such examinations protect the revenue by ensuring appropriate payment of wine excise taxes, and ensure that wine industry members produce, package, store, ship, and transfer wine in accordance with Federal laws 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?*

Wine industry members keep the usual and customary business records required under this information at their premises or a notified alternate location, and they may maintain the

required records in paper or electronic formats at their discretion. Where the TTB regulations specify that records be kept in a particular format, 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 as an alternate method or procedure issued under 27 CFR 24.22.

*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?*

This information collection requires wine industry members to keep usual and customary business records that are pertinent and specific to each respondent's wine operations. As far as TTB can 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?*

This information collection consists of usual and customary records kept by wine industry members during the normal course of business, regardless of any regulatory requirement to do so, and, as such, it does not have a significant impact on small entities. In any event, TTB considers this usual and customary recordkeeping requirement to be the minimum necessary to protect the revenue and ensure compliance with TTB administered laws and regulations. Waiver or reduction of this recordkeeping requirement, simply because the respondent's business is small, could jeopardize the revenue and industry compliance.

*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?*

In the absence of the usual and customary business records required under this information collection, or with the less frequent collection of this information, TTB could not accurately verify a wine industry member's excise tax liability, which would jeopardize the revenue. TTB also could not accurately determine a proprietor's compliance with the IRC provisions and the TTB regulations related to wine operations.

*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 general public regarding the proposed amendments to the information collection requirements contained under this collection approval, TTB will publish in the Federal Register a proposed rule titled "Modernization of Permit Application Requirements for Wine Premises," which will be open for comment for 60 days.

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?*

TTB provides no specific assurance of confidentiality for this information collection, which consists of usual and customary business records maintained by wine industry members at their premises during the normal course of business. 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 the IRC.

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 and Civil Liberties Impact Assessment (PCLIA) 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.*

There are no questions of a sensitive nature associated with this information collection. In addition, as this information collection consists of usual and customary business records kept by wine industry members at their premises during the normal course of business, it does not collect personally identifiable information (PII) in a government electronic system. As such, no Privacy and Civil Liberties Impact Assessment (PCLIA) or System of Records Notice (SORN) is required for this information collection.

12. *What is the estimated hour burden of this collection of information?*

*Estimated respondent burden:* Based on recent data, TTB estimates that 17,000 wine industry members respond once annually to this on-going information collection, for a total of 17,000 annual responses. However, because such respondents place the required identifying information on their wine containers as a usual and customary business practice, regardless of any regulatory requirement to do so, this third-party disclosure information collection places no annual burden on respondents, as described in the OMB regulations at 5 CFR 1320.3(b)(2).

*Respondent labor costs:* Per the OMB regulations at 5 CFR 1320.3(b)(2), there are no Government-imposed labor costs to respondents associated with the keeping of usual and customary records during the normal course of business.

*Respondent record retention:* Under 27 CFR 24.300(d), respondents must retain records required under 27 CFR part 24 for at least 3 years from the record date or the date of the last entry required in the record. TTB may require retention for up to an additional 3 years in cases where TTB determines that such retention is necessary.

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)?*

This information collection consists of usual and customary business records that wine industry members keep at their premises during the normal course of business, regardless of any regulatory requirement to do so. Therefore, under the OMB regulations at 5 CFR 1320.3(b)(2), there is no cost to respondents associated with this collection.

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

There is no cost to the Federal Government for this collection as respondents keep and maintain the required usual and customary business records at their business premises.

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

Program Changes

In a proposed rule titled “Modernization of Permit Application Requirements for Wine Premises,” TTB is proposing deregulatory amendments to its regulations to streamline the requirements for an application to establish and operate a wine premises and to relax reporting requirements associated with certain changes to the business or operations of a wine premises proprietor. The proposed amendments are intended to reduce the overall respondent burden associated with OMB No. 1513–0009, Application to Establish and Operate Wine Premises; and Wine Bond. In addition, certain proposed amendments will also effect OMB No. 1513–0057, Letterhead Applications and Notices Relating to Wine (TTB REC 5120/2), and this information collection request, OMB No. 1513–0115, Usual and Customary Business Records Relating to Wine (TTB REC 5120/1).

In relation to this information collection request, OMB No. 1513–0115, TTB generally requires wine premises proprietors to maintain records required under 27 CFR part 24 at their wine premises, but proprietors may request to maintain those records off-premises by submitting a letterhead application to do so under 27 CFR 24.22, Alternate method or procedure, as approved under OMB No. 1513–0057. Such letterhead applications must be approved by TTB before the proprietor can begin to maintain records at the specified off-premises location.

In the proposed rule described above, TTB is proposing amendments to paragraph (e) of § 24.300 to allow proprietors to maintain required records at a location other than the wine premises by merely submitting a letterhead notification to TTB reporting the alternate location. Such letterhead notices do not require TTB approval but merely inform TTB of the reported action or operation. Thus, the information collection requirement regarding alternate location for wine premises record maintenance would be transferred from § 24.22 to § 24.300(e), but it will remain accounted for under OMB No. 1513–0057. The overall recordkeeping requirements of § 24.300 will remain under OMB No. 1513–0115.

The proposed amendments to § 24.300 will not affect the estimated burdens of OMB No. 1513–0057 or OMB No. 1513–0115. TTB believes the number of annual respondents making alternate record maintenance location notifications to TTB will not change and the per-response burden will not change as that burden is the same for letterhead applications and letterhead notifications—0.5 hour per response. However, wine premises proprietors desiring to use off-premises record maintenance locations will no longer have to await TTB approval to do so as they will merely have to notify TTB of the alternate location. In

addition, TTB is clarifying that copies of records, including electronic copies, may be provided if TTB officers request to view a proprietor's records at their wine premises. TTB believes that these amendments will provide wine premises proprietors more flexibility regarding required recordkeeping and maintenance and will be less burdensome as the use of alternate record maintenance will no longer require prior TTB approval.

#### Adjustments

There are no adjustments to the burden associated with this information collection beyond the program changes noted above.

*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?*

This information collection consists of usual and customary business records kept by wine industry members at their premises or a notified alternate location during the normal course of business. As such, there is no prescribed TTB collection instrument for this collection, and, as such, there is no medium for TTB to display this information collection's OMB approval expiration date.

*18. What are the exceptions to the certification statement?*

There are no exceptions to the certification statement.

#### **B. Collections of Information Employing Statistical Methods.**

This information collection does not employ statistical methods.