

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0055

Offer in Compromise of Liability Incurred under the Federal Alcohol Administration Act.

Changes Since Last Approval

In this Supporting Statement, TTB is updating the information provided in Questions 8, 12, 13, 14, and 15 to reflect, respectively, the latest 60-day notice publication information, estimated respondent burden and labor costs, respondent non-labor costs, Federal Government costs, and the adjustments associated with this information collection request.

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.

To prevent abuses within the alcohol beverage industry and protect the public, the Federal Alcohol Administration Act (FAA Act, 27 U.S.C 201 *et seq.*) regulates interstate and foreign commerce in distilled spirits, wine, and malt beverages (hereafter "alcohol beverages"). Specifically, sections 203 and 204 of the FAA Act authorize the Secretary of the Treasury (the Secretary) to require importers and wholesalers of alcohol beverages and those who produce, blend, bottle, rectify, or warehouse distilled spirits or wine to obtain permits to engage in such businesses. Section 205 of the FAA Act prohibits certain unfair trade practices and deceptive or misleading labeling and advertising of alcohol beverages, while sections 206 and 208 regulate, respectively, bulk sales of distilled spirits and interlocking directorates within that industry. Section 207 specifies civil and criminal penalties for violations of the FAA Act, but that section also authorizes the Secretary to accept the compromise of liabilities arising from violations of the Act.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act 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 has delegated certain FAA Act administrative and enforcement authorities to TTB through Treasury Order 120-01.

Under the authority of section 207 of the FAA Act, the TTB regulations at 27 CFR 70.483 allow a proponent to submit a monetary offer in compromise to resolve alleged FAA Act violations using form TTB F 5640.2, Offer in Compromise of Liability Incurred Under the Federal Alcohol Administration Act, as Amended. That form identifies the alcohol beverage industry proponent, the alleged violation(s) and their cause(s), the amount of the offer in compromise, and the reason(s) why TTB should accept the offer. TTB uses that information to evaluate the adequacy of the compromise offer in relation to the alleged violation(s) of the

FAA Act and to determine if it should accept the proponent's offer or pursue civil penalties or criminal prosecution against the alleged violator through the Department of Justice.

This information collection request is aligned with the following Line of Business/Sub-function: *Law Enforcement/Substance Control*.

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

Proponents who desire to submit monetary offers in compromise to TTB to resolve alleged FAA Act violations complete form TTB F 5640.2. The provided information identifies the proponent, the alleged violation(s) and their cause(s), the amount of the compromise offer, and the reason(s) why TTB should accept the offer. TTB personnel examine each form to evaluate the adequacy of the proponent's offer in compromise in relation to the alleged violation(s) of the FAA Act. This allows TTB to determine if it should accept the compromise offer or pursue civil penalties or criminal prosecution against the alleged violator through the Department of Justice, which may be more costly to, and carry greater litigation risks for, the Federal Government.

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?

Given the specific and unique nature of the offer in compromise information provided by a proponent under this collection request, TTB believes that the use of advanced information technology for its submission and processing will not reduce its burden. Currently, TTB F 5640.2 is available at no cost to respondents as a fillable-printable form on the TTB website at <https://www.ttb.gov/public-information/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 offer in compromise information collected on TTB F 5640.2 is specific and unique to the proponent's alleged FAA Act violation liabilities and the related offer in compromise. 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 request is not susceptible to reduced requirements for small business. All businesses, regardless of size, and all individuals making FAA Act-related offers in compromise must provide the required information. TTB believes the collected information is the minimum necessary for TTB to determine if it should accept such offers.

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?

Proponents submit the required information only when they have an alleged FAA Act-related liability and seek to settle the case through an offer in compromise prior to any civil or

criminal proceedings. As such, TTB cannot conduct this collection request less frequently. In addition, if TTB did not conduct this collection request, TTB would have to act against proponents with such liabilities through Department of Justice civil or criminal proceedings, which may be more costly to and carry greater litigation risks for the Federal Government.

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 request 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 for this information collection request in the Federal Register on November 29, 2024, at 89 FR 94871. TTB received no comments on this 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 request.

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 request. However, while TTB does not make public information regarding pending and rejected FAA Act-related offers in compromise, the TTB regulations at 27 CFR 70.802(a) provide for public inspection of an “abstract and statement” for all accepted offers in compromise. To make this disclosure, TTB creates a record for each accepted compromise using internal form TTB F 5640.3, Abstract and Statement, which TTB posts on the Administrative Actions page of its website for public viewing (see <https://www.ttb.gov/fo/administrative-cases>). That record identifies the offer’s proponent, the facts regarding the offer in compromise and its amount, and TTB’s rationale for accepting the offer; however, TTB redacts any permit or taxpayer identification numbers from the posted statement.

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 request contains no questions of a sensitive nature. However, this request does collect personally identifiable information (PII) in a government electronic system, the Case Management System, for which TTB has conducted a Privacy and Civil Liberties Impact Assessment (PCLIA). In addition, the collected information is included

within TTB's record system, titled "Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records" for which TTB published a System of Records Notice (SORN) on October 11, 2022, at 87 FR 61435. Links to TTB's PCLIA's and SORN may be found on the TTB website at <https://www.ttb.gov/public-information/foia>.

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

Estimated Respondent Burden: Based on recent data, TTB estimates that 10 respondents will each annually submit one FAA Act-related offer in compromise using form TTB F 5640.2, resulting in 10 total annual responses. TTB additionally estimates that each response takes 2 hours to complete, resulting in an estimated total annual burden of 20 hours for this information collection request.

Estimated Respondent Labor Costs: While respondents are not required to engage the services of a lawyer, accountant, or other professional to make an offer in compromise, TTB is basing the estimated maximum respondent labor cost for this collection on the use of a lawyer employed in the beverage manufacturing industry. Based on a fully-loaded labor rate of \$130.58 per hour for such lawyers, TTB estimates the annual maximum respondent labor costs for this information collection request as follows:¹

Respondent Labor Costs for OMB No. 1513–0055 (Lawyers in the Beverage Manufacturing Industry at \$130.58/hour)					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Respondents	Total Labor Costs
2.0 hours	\$261.16	1	\$261.16	10	\$2,611.60

* Labor costs rounded to the nearest whole cent.

Recordkeeping Burden: There is no stated recordkeeping period for this information collection request.

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)?*

There are no start-up, capital, or annual maintenance, operational or overhead costs associated with this occasional information collection request. As such, respondents only incur postage and mailing supply costs for the submission of this information collection request, which TTB estimates to be \$16.00 per respondent (priority mail flat rate envelope via certified mail) and \$160.00 for 10 respondents.

¹ The Private Sector Fully-loaded Labor Rate per Hour = Hourly wage rate multiplied by 1.44 to account for employee benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), wage data for NAICS 312100—Beverage Manufacturing, the estimated fully-loaded labor rate per hour for lawyers (23–1011) is \$130.58, based on a mean hourly wage of \$90.68. TTB notes that accountants and other related professionals in the beverage manufacturing industry have lower hourly wage rates than lawyers in that industry. See the BLS website at https://www.bls.gov/oes/current/naics4_312100.htm.

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

There are no TTB overhead costs associated with this occasional information collection request, and there are no printing and distribution costs to TTB due to the availability of its forms on the TTB website (see <https://www.ttb.gov/public-information/forms>). As such, there are only Federal Government labor costs associated with this information collection request, and TTB estimates those costs as follows:

Labor Costs for Personnel at TTB’s National Revenue Center in Cincinnati, Ohio, for OMB No. 1513–0055					
Position	Fully-loaded Labor Rate per Hour ²	Processing Time per Response	Labor Costs per Response	Responses Processed	Total TTB Labor Costs
GS–5, Step 5, Clerk	\$37.18	0.25 hour	\$9.30	10	\$93.00
GS–11, Step 5 Auditor or Specialist	\$68.17	5 hours	\$340.85	10	\$3,408.50
GS–14, Step 5 Attorney**	\$114.82	5 hours	\$574.10	2**	\$1,148.20
GS–15, Step 5 Director, Tax Services Div.	\$135.05	1 hour	\$135.05	10	\$1,350.50
GS–15, Step 5, Deputy Ass’t Administrator	\$135.05	4 hours	\$540.20	10	\$5,402.00
TOTALS	(\$74.7685)	15.25 hours	\$1,140.22	10	\$11,402.20

* Labor costs rounded to the nearest whole cent unless otherwise noted.

** TTB estimates that only 20 percent of FAA Act-based offers in compromise require review by a TTB attorney.

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

There are no program changes associated with this information collection request at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates, TTB is decreasing the estimated annual respondent burden associated with this collection, from 20 respondents to 10, from 20 total responses to 10, and the total annual burden from 40 hours to 20. The per-response burden of 2 hours remains the same as previously reported. These adjustments result from a decrease in the number of respondents submitting FAA Act-based offers in compromise to TTB. In addition, due to changes in agency estimates resulting from more complete data, TTB is revising the Federal Government labor costs associated with this information collection request to more accurately reflect how this collection is processed within TTB.

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 per hour for Federal employees in the Cincinnati, Ohio, wage area are: (1) \$33.27 for GS–5 (step 5), based on an hourly wage of \$22.81; (2) \$68.17 for GS–11 (step 5), based on an hourly wage of \$41.82; (3) \$114.82 for GS–14 (step 5), based on an hourly wage of \$70.44; and \$120.85 for a GS–15 (step 5), based on an hourly wage of \$82.85. See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/CIN_h.pdf.

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

While TTB does not publicly disclose information regarding pending and rejected FAA Act-related offers in compromise, the TTB regulations at 27 CFR 70.802(a) provide for public inspection of an “abstract and statement” for all accepted offers in compromise. To make this public disclosure, TTB creates a record for each accepted compromise using internal form TTB F 5640.3, Abstract and Statement, which TTB posts on its website for public viewing (see <https://www.ttb.gov/fo/administrative-cases>). The posted statement identifies the proponent of the offer in compromise, the facts regarding the offer and its amount, and TTB’s rationale for accepting the offer; however, TTB redacts any permit, case, and taxpayer identification numbers from the posted statement.

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 forms TTB F 5640.1, Offer in Compromise of Liability Incurred under Provisions of Title 26 U.S.C. Enforced and Administered by the Alcohol and Tobacco Tax and Trade Bureau, TTB F 5600.17, Collection Information Statement for Individuals, and TTB F 5600.18, Collection Information Statement for Businesses. By not displaying that date, TTB will not have to update these occasionally-used forms each time OMB reapproves this information collection request. Similarly, respondents and other businesses will not have to update stocks of the paper forms, self-produced electronic copies of the forms, or versions of the forms made for sale to other businesses. Additionally, not displaying the information collection’s OMB approval expiration date on the paper forms will avoid confusion among members of the public who may have copies of the forms with different expiration dates in their possession.

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

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This information collection request does not employ statistical methods.