

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0059

Information Collection Request Title:

Usual and Customary Business Records Relating to Tax-Free Alcohol (TTB REC 5150/3).

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 has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

Under the IRC, alcohol may be withdrawn from a distillery free of tax for nonbeverage purposes:

- by the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia (26 U.S.C. 5214(a)(2));
- for use of any educational organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning (26 U.S.C. 5214(a)(3)(A));
- for any laboratory for use exclusively in scientific research (26 U.S.C. 5214(a)(3)(B));
- for use at any hospital, blood bank, or sanitarium (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums (26 U.S.C. 5214(a)(3)(C)); or
- for the use of any clinic operated for charity and not for profit, including use in the compounding of bona fide medicines for treatment outside of such clinics by patients thereof (26 U.S.C. 5214(a)(3)(D)).

To prevent illegal diversion of tax-free alcohol to taxable beverage use, the IRC, at 26 U.S.C. 5271–5275, imposes a system of permits, bonds, records and reports, and other requirements to control the use of tax-free alcohol, and the Secretary is authorized to issue regulations regarding these matters.

The TTB regulations implementing the recordkeeping requirements regarding tax-free alcohol are found in 27 CFR Part 22, Distribution and Use of Tax-free Alcohol. In addition, recordkeeping requirements for tax-free alcohol shipped to the United States from the U.S. Virgin Islands are found in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the U.S. Virgin Islands.

Recordkeeping requirements included under this information collection approval are usual and customary business records. TTB believes that regulated individuals and entities would maintain these records in the normal course of business because in order to document the purchase and use of chemicals, such as alcohol, through all stages of use, including educational and scientific research or the production and dispensing of medicine.

The regulations containing the recordkeeping requirements approved under this information collection requirement are currently found in 27 CFR parts 22 and 26 at:

- § 22.122 Losses in Transit.
- § 22.123 Losses on Premises.
- § 22.134 Records of Shipment.
- § 22.151 Return (Spirits to Distilled Spirits Plant).
- § 22.152 Reconsignment in Transit.
- § 22.155 Emergency Disposition to another Permittee.
- § 22.161 Records (Transaction).
- § 22.162 Inventories (Physical).
- § 22.164 Filing and retention of records.

- § 26.294 Record of Shipment (from U.S. Virgin Islands to the United States).

Proposed Rule

On June 21, 2016, TTB issued a proposed rule titled “Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System” (Notice No. 159), which will amend the TTB regulations governing the importation of distilled spirits, wine, beer and malt beverages, tobacco products, processed tobacco, and cigarette papers and tubes. The proposed amendments are intended to clarify and streamline import procedures, and support the implementation of the International Trade Data System and, specifically, the filing of import information electronically in conjunction with an electronic import filing with U.S. Customs and Border Protection (CBP). The proposed amendments include providing the option for importers to file import-related data electronically when filing entry or entry summary data electronically with CBP, as an alternative to the current TTB requirements that importers submit paper documents to CBP upon importation. Under the proposed rule, the information collection approval for many of these electronic submissions will be placed under OMB control number 1513–0064, Importer’s Records and Reports (TTB REC 5170/1).

In the case of this information collection, 1513–0059, the proposed amendments to the regulations at 27 CFR § 26.294 will allow certain information relating to shipments from the U.S. Virgin Islands of industrial spirits or specially denatured spirits to be filed electronically with CBP at the time of filing the entry or entry summary, as appropriate. Also, the amendments clarify that, regardless of the method of filing, the record of shipment must be retained for not less than three years and must be made available to TTB or CBP upon

request. As noted in the proposed rule, TTB will place the recordkeeping requirement prescribed by § 26.294 under OMB control number 1513–0064, rather than 1513–0059. However, the estimated number of respondents for OMB control number 1513–0059 (5,268) and the estimated average annual burden hours remain unchanged.

Final Rule

TTB is issuing a Final Rule titled “Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System,” which will finalize, with minor clarifying changes not relevant to this information collection, the amendments proposed in Notice No. 159.

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?

These records are maintained at the premises of the regulated individual or entity and are routinely inspected by TTB personnel during field compliance examinations. These examinations are necessary to verify that all tax-free alcohol can be accounted for and that such alcohol is used only for purposes authorized by law 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?

These records are maintained by the regulated industry members at their business premises and may be inspected by TTB personnel. The regulated industry members may keep the required records in paper or electronic formats at their discretion.

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 request requires records that are pertinent to each recordkeeper. As far as we 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?

We consider these recordkeeping requirements to be the minimum necessary to protect the revenue and to 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.

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 order to protect the revenue and public safety, this information collection helps ensure that tax-free alcohol has not been diverted to beverage use. If these records were not maintained there would be a significant gap in the audit trail and it would be difficult or impossible for TTB to trace tax-free alcohol transactions.

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?*

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, TTB published a proposed rule titled "Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System" (Notice No. 159), in the Federal Register on Tuesday, June 21, 2016, at 81 FR 40404.

TTB received seven comments in response to the proposed rule. None of the comments specifically addressed this collection of information.

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 collection.

10. *What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?*

No specific assurance of confidentiality is provided for this information collection, which consists of usual and customary business records maintained by regulated industry members at their business premises. 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 tax-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 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, which consists of usual and customary business records maintained by industry members at their business premises, contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in a government 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?

This information collection involves usual and customary business records that would be kept by regulated industry members at their premises even without the TTB regulatory requirements to keep such records. Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden for all 5,268 tax-free alcohol users required to keep these usual and customary business records is estimated to be one hour (represents a place holder not an actual estimate of burden). The 5,268 respondents to this information collection include 2,634 not-for-profit institutions, 1,317 Federal government respondents, and 1,317 State, local, and tribal government respondents.

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 a respondent keeps at their premises as a normal part of doing business. Therefore, 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 the maintenance of usual and customary business records by proprietors at their business premises.

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

Under the final rule noted in Question 1, we are removing 27 CFR 26.294 from this information collection approval and place it under OMB control number 1513–0064, Importer's Records and Reports (TTB REC 5170/1). However, since this change will not affect the number of respondents to 1513–0059, there are no adjustments to the burden associated with this information collection.

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

TTB will not publish the results of this 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 that regulated industry members keep at their business premises as a normal part of doing business. As such, there is no prescribed TTB form for this collection, and, therefore, there is no medium for TTB to display the OMB approval expiration date.

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

- (c) See item 5 above.
- (g) This information collection consists of usual and customary business records that regulated industry members keep at their business premises as a normal part of doing business. As such, there is no medium for TTB to inform respondents of the information called for under 5 CFR 1320.8 (b)(3).
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.