

**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.**

Information Collections Issued under this Title:

- Offer in Compromise of Liability Incurred under the Federal Alcohol Administration Act (Filed on TTB F 5640.2.)

**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.*

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. As such, sections 203 and 204 of the FAA Act authorize the Secretary of the Treasury to require importers and wholesalers of alcohol beverages and those who produce, blend, bottle, rectify, or warehouse distilled spirits or wine to have or obtain permits to engage in business. 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 compromise of liabilities arising from such violations.

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 those authorities, 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. That form identifies the proponent, the alleged violation(s) and their cause(s), amount of the compromise offer, 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 determines if it should accept the proponent's offer or pursue civil penalties or criminal prosecution against the alleged violator.

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: None.

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

Proponents who desire to submit FAA Act-related monetary offers in compromise to resolve alleged FAA Act violations complete form TTB F 5640.2. The information provided on the form identifies the proponent, the alleged violation(s) and their cause(s), 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 compromise offer 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, which may be more costly to, and carry greater litigation risks for, the 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 to respondents as fillable-printable forms on the TTB website at <https://www.ttb.gov/forms/5000.shtml>.

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. 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 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 take action

against proponents with such liabilities through civil or criminal proceedings, which may be more costly to, and carry greater litigation risks for, TTB.

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 general public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on Friday, August 24, 2018, at 83 FR 42975. TTB received no comments on this information collection.

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?*

While no specific assurance of confidentiality is provided for this information collection, Federal law at 5 U.S.C. 552 generally protects the confidentiality of proprietary information (e.g., trade secrets, processes, operations, style of work, apparatus, or confidential data) obtained by the Government from regulated businesses and individuals. TTB maintains the submitted information in secure file rooms and computer systems with controlled access.

Information regarding pending and rejected FAA Act-related offers in compromise is not made public. However, 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 form TTB F 5640.3, Abstract and Statement, which TTB posts on its website for public viewing. That record identifies the offer’s proponent, the facts regarding the offer and its amount, and TTB’s rationale for accepting the offer, but TTB redacts any permit or taxpayer identification numbers from the posted report (see <https://www.ttb.gov/fo/compromise.shtml#offers>).

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 its Regulatory Major Application System. TTB has issued a Privacy Act System of Records notice (SORN) for that application under TTB .001–Regulatory Enforcement Record System, which was published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB’s PIAs are available on the TTB website at <https://www.ttb.gov/foia/pia.shtml>.

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

Based on recent data, TTB estimates that 20 respondents annually submit one FAA Act-related offer in compromise each on TTB F 5640.2, resulting in 20 total annual responses. TTB further estimates that each response takes 2 hours to complete, resulting in an estimated 40 hours of total annual burden for this information collection.

(20 respondents x 1 annual response each = 20 annual responses x 2 hours per response = 40 total annual burden 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)?*

There are no start-up, capital, or annual maintenance, operational or overhead costs associated with this very occasional information collection request. As such, respondents only incur negligible material and postal costs associated with printing and submitting the required paper form.

As for respondent salary costs, TTB estimates that each response costs an average of \$45.60, for a total cost of \$912.00 for this information collection.

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

Estimates of the annual cost to the Federal Government for this information collection are:

|   |                 |
|---|-----------------|
| Clerical costs                                    | 400             |
| Other Salary costs<br>(review, supervisory, etc.) | 4,500           |
| <b>TOTAL COSTS</b>                                | <b>\$ 4,900</b> |

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 through the TTB website (<https://www.ttb.gov/forms/5000.shtml>).

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

There are no program changes or adjustments associated with this information collection.

Form: In the Paperwork Reduction Act Notice on TTB F 5640.2, TTB is updating the mailing address for its headquarters.

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

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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 general public, TTB requests approval to not display the expiration date for OMB approval of this information collection request on TTB F 5640.2. By not displaying the OMB approval expiration date for this collection request, TTB will not have to update that date on that paper form each time OMB approves the collection. This will avoid confusion among respondents when the collection's approval date may have passed but its approval continues on a month-to-month basis while it is under OMB review. In addition, respondents and other businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any versions produced for sale to others.

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 collection does not employ statistical methods.