

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0021

TTB Form 5154.1 - Formula and Process for Non Beverage Product

**A. Justification**

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

The Internal Revenue Code, in 26 U.S.C. 5131-5134, authorizes a "drawback" (similar to a refund) of excise tax already paid on distilled spirits, if the spirits are subsequently used in the manufacture of certain nonbeverage products. To be eligible for drawback, the distilled spirits must be used to make "medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are unfit for beverage purposes" (26 U.S.C. 5131).

Drawback is granted by the Department of the Treasury upon the filing of a "proper claim" (26 U.S.C. 5134). To ensure that the claim is proper, 26 U.S.C. 5132 prescribes that a claimant must maintain books and records which substantiate the claim, to show that the products produced were unfit for beverage use. The Secretary of the Treasury or his or her delegate is authorized by 26 U.S.C. 5133 to examine these records, books, papers, or memoranda, and to take any testimony that will verify the correctness of the claim.

The Secretary is directed by 26 U.S.C. 5132 to prescribe regulations to ensure that drawback is not paid for unauthorized purposes.

Current regulations under 26 U.S.C. 5132 are codified in 27 CFR Part 17. The regulations require manufacturers to submit quantitative formulas, describing the manufacturing process for all products on which drawback is claimed (27 CFR 17.121, 126, 127, 132, and 136). This requirement enables the Alcohol and Tobacco Tax and Trade Bureau (TTB) to ensure that drawback products are unfit for beverage use and are of the types authorized by law. The prescribed form for submitting the formula and process is TTB F 5154.1.

If a person were to use taxpaid distilled spirits to manufacture a product that is later found to be fit for beverage use, the person would not be entitled to drawback of the tax for the spirits that were used. For this reason, TTB encourages manufacturers to

submit a formula for approval before starting to make each product for drawback. However, if a formula is submitted later than this, TTB will still allow drawback without penalty if the formula for an approved product is submitted within the statutory time limit for filing a claim (i.e. within 6 months after the end of the quarter in which the spirits were used). If the formula is not filed until after the statutory time limit, a \$1,000 penalty is prescribed by 26 U.S.C. 5134.

The information on TTB Form 5154.1 allows TTB to determine whether a given product is or is not fit for beverage purposes. When this determination has been made, the results are entered on the form and a copy is returned to the manufacturer. This procedure is necessary for TTB and beneficial to the claimant, for it enables the claimant to know in advance of actual manufacture whether the product is or is not fit for beverage purposes.

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

Initially, the information collected on TTB F 5154.1 is used by TTB laboratory personnel to determine whether the product described on the form is eligible for nonbeverage drawback. This determination is made once for each formula that is submitted.

TTB field inspectors and National Revenue Center specialists are regularly assigned to investigate the correctness of drawback claims. By comparing the claimant's records and reports with the information on the approved TTB F 5154.1, TTB can ascertain whether the product has been made in conformity with its approved formula. If the product is made in conformity with the formula, the claimant is entitled to drawback.

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 will consider on a case-by-case basis, the use of improved technology.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

TTB Form 5154.1 is a regulatory requirement that collects information that is unique to the respondent's formula. As far as we can determine, similar information is not available any where else.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

This collection of information is used to document authorization for drawback that is a refund on taxes paid. To protect the revenue, all entities regardless of size are required by regulation to complete this information collection requirement. Waiver or reduction of this requirement simply because the respondent's business is small would 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?

Respondents complete this information collection requirement only once for each product that they manufacture. Less frequent collection would mean that some products would not be covered by formulas. In that case, TTB would not be able to grant drawback for those products, since we would not know whether the products meet the statutory requirements. If TTB did not collect this information, there would be no practicable means of determining the validity of nonbeverage drawback claims.

7. Are there any special circumstances associated with this information collection?

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?

A 60-day Federal Register notice was published for this information collection on Friday, April 25, 2008, 73 FR 22462. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

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 on this form; however, the confidentiality of the information collected on the form is protected by 26 U.S.C. 6103.

11. What justification is there for questions of a sensitive nature?

No questions of a sensitive nature are asked.

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

The number of respondents (611) and the number of forms filed annually (8) are based on historical data from TTB personnel who process this form. The estimated average number of hours per response (0.5 hour) is based on information obtained from respondents.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

There is no cost associated with this collection.

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

Estimates of annual cost to the Federal Government are:

Printing	\$ 538
Distribution	236
Clerical Cost	312
Other Salary (review, <u>supervisory, etc.)</u>	<u>2,524</u>
TOTAL	<u>\$3,610</u>

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There is a program change associated with this collection due to a correction in the number of forms filed annually. Although we have added an e-mail address and a check box in item 7, the amount of time it takes to complete this form remains at 30 minutes.

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

The results of this collection will not be published.

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?

We will display the expiration date of OMB approval for this collection.

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 collection does not employ statistical methods.