

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number – 1513-0118

TTB Reporting Requirement 5052/1 - Formulas for Fermented Beverage Products

A. Justification

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

Section 5052 of the Internal Revenue Code of 1986 (IRC) defines the term beer to mean beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute thereof.

The IRC requires that beer removed for consumption or sale be taxed at the rate of \$18 per barrel (31 gallons). Certain small brewers pay at a reduced tax rate of \$7 per barrel. To safeguard the revenue drawn from this tax, Congress provided in 26 U.S.C., Subtitle E, a comprehensive system of regulating breweries and collecting excise taxes on beer. Specifically:

- 26 U.S.C. 5051-5056 impose taxes on beer, provide for specific exemptions from beer taxes, and provide for payment and refund of beer taxes.
- 26 U.S.C. 5401 requires all brewers to furnish qualifying documents to TTB before they start business. These documents include a notice with specific information about the intended business, as well as a bond to ensure payment of, and protect, the beer tax revenue of the United States.
- 26 U.S.C. 5052, 5092, and 5416 define beer, brewer, package, and packaging.
- 26 U.S.C. 5411 lists authorized uses of brewery premises and stipulates that the Secretary may allow by regulation other uses that do not jeopardize the revenue.
- 26 U.S.C. 5412 allows brewers to remove beer only in containers marked as required by regulation. This section also permits pipeline removal of beer to a contiguous distilled spirits plant.
- 26 U.S.C. 5414 permits removals of beer from one brewery to another brewery owned by the same brewer.
- 26 U.S.C. 5415 requires brewers to keep records in the form and manner prescribed by regulation. To protect revenue these records must be available

during business hours for TTB examination. The records must be maintained according to regulation.

- 26 U.S.C. 5417 authorizes pilot brewing plants for research, analytical, experimental, or developmental purposes.
- 26 U.S.C. 5555 authorizes the Secretary of the Treasury to issue regulations, and to require records, reports, and returns from persons liable for tax under 26 U.S.C. Chapter 51.

This information collection submission involves a written notice. TTB requires brewers to submit a written notice to obtain approval to conduct certain operations and specific regulated activities. The written notice sets forth the information necessary to ensure compliance with all applicable statutory and regulatory provisions. A brewer may not conduct the activities in question without submitting a written notice for review and TTB approval.

More specifically, this collection of information involves the filing of a written notice in the form of a formula for certain fermented products produced at a brewery. Brewers file formulas as needed and only for the products specified in 27 CFR 25.55(a). A separate formula is required for each product although this section permits a brewer to file a formula for an intermediate product, such as a beer base that will be used in the production of a formula product. Under 27 CFR 25.55, a brewer operating multiple breweries may file a single formula to cover the production of a specified fermented product at all of their breweries.

The information collection requirement covered by this submission is in 27 CFR 25.15 and 25.55 – 25.58. These provisions set forth standards that brewers must follow for the submission and approval of formulas that pertain to certain fermented products that they produce. 27 CFR 25.15 outlines standards for the production of beer. 27 CFR 25.55 sets forth rules for when a brewer must submit a formula to TTB for approval. 27 CFR 25.56 prescribes the procedure for filing a formula. 27 CFR 25.57 specifies the information that must be included with a formula. 27 CFR 25.58 specifies when a brewer must file a new or superseding formula.

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

TTB examines the formula information in the written notice to:

- Ensure that TTB has sufficient information concerning formulas for certain fermented beverage products;
- Determine that the product meets the standard for the production of a fermented beverage product and that only authorized materials are used;
- Determine if the product may be produced at a brewery and if it is eligible to be taxpaid at the rate applicable to beer and sake;
- Determine the kind of product for labeling and product classification purposes; and

- Determine the source of alcohol and the amount of alcohol added to a fermented beverage product.

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?

A pending revision of 27 CFR Part 25 will encourage greater use of information technology by brewers. TTB is taking steps to include these information collection requirements in an e-commerce initiative that would include electronic submissions of written notices. TTB has approved and will continue to approve, on a case-by-case basis, the use of information 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 approval of a formula is binding until the brewer surrenders the formula or until business or regulatory issues results in the brewer no longer producing the covered fermented beverage product. Thus, there is no requirement to resubmit approved formulas on a periodic basis. Formulas continue in effect until revoked or voluntarily surrendered. 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 information collection does not have a significant economic impact on a substantial number of small entities. TTB requires only such information as is necessary to meet its responsibilities under the Internal Revenue Code.

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?

Without the information in this written notice, TTB is not able to assess compliance with law and regulations or to determine if there is jeopardy to the revenue. Less frequent collection of or failure to collect this information would adversely affect the agency's ability to ensure compliance with existing standards for the production of beer and other fermented beverages.

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

There are no special circumstances associated with this collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day notice was published in the Federal Register (73 FR 64397) on Wednesday, October 29, 2008. The notice solicited comments from the general public. TTB received no comments in response to this notice.

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

No decision to provide any 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?

This information is protected from disclosure under 26 U.S.C. 6103 and 5 U.S.C. 552.

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

We ask no questions of a sensitive nature.

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

Based on experience with the filing of statements of process, TTB estimates that approximately 100 brewers will file an average of 5 formulas per year to cover the production of fermented beverage products. TTB estimates that each formula requires one hour to complete. The total annual burden hours are 500.

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

The total annual cost estimate associated with this written notice requirement is allocated entirely to operations and maintenance. Personnel levels filling out this information could vary significantly. Estimated annual costs are allocated as follows:

Personnel time requirements		
Minimum wage preparation:	5 hours @ \$6.55 =	\$32.75 to
Senior level preparation:	5 hours @ \$75.00 =	\$375.00
Postage	5 notice submissions @ \$0.42 = \$	2.10
Total annual cost burden per respondent		\$34.85 - \$377.10
Total industry cost burden @ 100 respondents		\$3,485.00 – \$37,710.00

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

There is no cost to the Federal Government.

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 an adjustment reported in Item 14 of the OMB Form 83-I due to the increase in minimum wage and the cost of 1<sup>st</sup> class postage, and because we are reporting actual numbers as oppose to rounding up to the nearest thousand.

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

We 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?

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. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.