

DEPARTMENT OF THE TREASURY
ALCOHOL TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0122

TTB F 5100.51 Formula and Process for Domestic and Imported Alcohol Beverages

A. JUSTIFICATION

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

Background:

Prior to 2007, alcohol beverage formula approval could be obtained using a variety of different forms and submission methods, including TTB F 5100.38, Formula for Distilled Spirits Under the Federal Alcohol Administration Act; TTB F 5120.29, Formula and Process for Wine; Quantitative list of ingredients and method of manufacture submitted on foreign producer's letter head for products that an applicant wishes to import; and Statements of Process for Malt Beverage and Sake products. In the Fall of 2007, all of the information from the various forms and submission methods used to obtain formula and pre-import approval was consolidated into one form, TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages. The form captures information required for formula and pre-import approval, according to TTB's Industry Circular 2007-4 and 27 CFR Parts 4, 5, 7, 19, 24, 25, 26, and 27, for all commodities. TTB intends to amend its regulations to replace all of the separate forms listed above with the TTB F 5100.51. To date, the majority of proprietors are voluntarily using TTB F 5100.51 to submit formulas.

- A. Regulations directing operations by proprietors of domestic distilled spirits plants, wineries, or breweries are found in 27 CFR Parts 19, 24, and 25, respectively. These regulations include rules for making standard products of each commodity. These standard products may be made without special approval. However, if a proprietor wishes to make a product that is different from the standard products allowed under the applicable regulations, the proprietor may obtain formula approval, using TTB F 5100.51. On this form, the proprietor must describe in detail the ingredients and the process used to make the product.
- B. For wine, the Internal Revenue Code contains a specific formula requirement in 26 U.S.C. 5386 for special natural wines. 26 U.S.C. 5361, 5362(d), 5387, and 5388(b) authorize the Secretary of the Treasury to issue regulations covering production of wines other than natural wines. Persons in Puerto Rico and the Virgin Islands are also required to submit formulas to TTB for wine products shipped to the United States. Formula requirements are prescribed in the following regulations:

27 CFR 24.80	27 CFR 24.192	27 CFR 24.211
27 CFR 24.81	27 CFR 24.195	27 CFR 24.214
27 CFR 24.82	27 CFR 24.196	27 CFR 26.50(b)
27 CFR 24.86	27 CFR 24.198	27 CFR 26.220(b)
27 CFR 24.87	27 CFR 24.201	

- C. For distilled spirits, whenever the proprietor intends to blend, mix, purify, refine, compound, or treat spirits in a manner which results in a change in character, composition, class, or type of the spirits, such process cannot be conducted by the proprietor until a formula is submitted to and approved by TTB. The formula, filed on TTB F 5100.51, must list all ingredients, and in some cases the process used. Formula requirements and a description of the processing requirements that can change character, composition, class, or types of spirits are listed in 27 CFR Part 5. Persons in Puerto Rico and the Virgin Islands are required to submit formulas to TTB for distilled spirits products shipped to the United States.

For distilled spirits, the statutes that authorize the collection of information contained in TTB F 5100.51 are found at 27 U.S.C 205(e) and 26 U.S.C. 5222, 5223, 5232, and 5555. Formula requirements for spirits are found in the following regulations:

27 CFR 5.26	27 CFR 19.348	27 CFR 26.197
27 CFR 5.27	27 CFR 26.50(a)	27 CFR 26.220(a)
27 CFR 5.28	27 CFR 26.54	27 CFR 26.224.

- D. The Internal Revenue Code, 26 U.S.C. 5401 and 5555, gives the Secretary authority to require brewers to file returns and reports, including formulas. Regulations in 27 CFR Part 25 require brewers to submit formulas to TTB for approval prior to making certain fermented products at the brewery. Standard beers made without flavoring ingredients or without using unusual processes do not require the submission and approval of formulas prior to their production. Products that require formulas include sake, fermented products that contain flavoring or coloring materials, and fermented products that undergo processing that substantially changes the character of the product. As of January 3, 2006, brewers file a formula for this activity, and must file this formula using TTB F 5100.51. Brewers must list all ingredients, quantities of ingredients used, flavors and other materials containing alcohol, and the alcohol contribution to the finished fermented product derived from these alcohol ingredients. Brewers must also describe unusual processes used in manufacturing fermented products. Formula requirements for fermented brewery products are found in the following regulations:

27 CFR 25.53	27 CFR 25.55	27 CFR 25.56
27 CFR 25.57	27 CFR 25.58.	

- E. Section 205(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) gives the Secretary of the Treasury the authority to issue regulations to prohibit deception of the consumer and provide the consumer with adequate information as to the identity and quality of alcohol beverages. Domestic producers and importers file applications for certificates of label approval under the FAA Act and 27 CFR Parts 4, 5, 7, and 13 on TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval (OMB Control Number 1513-0020). As a part of the process for obtaining an approved TTF F 5100.31, TTB may request an importer to submit a formula on TTB F 5100.51 for an imported alcohol beverage. Regulations authorizing TTB to request formulas for imported alcohol beverage products are contained in:

27 CFR 5.51	27 CFR 7.31.
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This information collection is aligned with:

Treasury Strategic Goal: US & World Economies Perform at Full Performance Potential.

Line of Business/Sub-function: Law Enforcement/Substance Control.

IT Investment: Regulatory Major Application Systems.

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

The information received through the submission of TTB F 5100.51 allows TTB to determine if the applicant meets the requirements for the production or importation of the product for which they are applying. Production or importation may not occur if TTB does not approve the formula or process. The information is also used by TTB in deciding whether to approve the label of the product.

We review formulas on TTB F 5100.51 to determine:

- If the proposed ingredients are safe for human consumption (that is, all ingredients are U.S. FDA approved for food and beverage use),
- If approved production techniques are used,
- The applicable tax rate,
- The proper class and type of the alcohol beverage and the appropriate label designation of the product, and
- In the case of nonbeverage wine (withdrawn free of tax under the provision of 26 U.S.C. 5362(d)), that the wine has been rendered nonbeverage.

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?

Formulas Online:

TTB F 5100.51 is the basis for the creation of Formulas Online, TTB's new, web-based system for drafting, submitting, and tracking formula applications for domestic and imported alcohol beverages. This new system streamlines the formula approval process and the way in which formula applications are submitted, and promotes compliance with the Paperwork Reduction Act of 1995. Through this system, applicants are no longer required to submit formula and pre-import applications in duplicate. The required information is entered directly into the appropriate fields of Formulas Online and supporting documentation is uploaded to the application. Moreover, Formulas Online interfaces with other systems such as COLAs Online, which allows industry members to submit label applications electronically. With the integration of Formulas Online with COLAs Online, COLA applicants no longer have to supplying copies of a particular formula along with a COLA application but may now select the appropriate formula from a drop down menu. Labeling Specialists are then able to obtain all information regarding a particular label and formula submission without having to access paper file records.

To date, 18% of formula submitters are utilizing Formulas Online as their formula submission method. Although the Formulas Online offers electronic submission, the user may not see a reduction in time to complete the application; but, they will see a significant change in the amount of time it takes for them to receive a determination (approval or rejection) notification.

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 F 5100.51 collects information that is pertinent to each respondent and applicable to his/her specific formula. 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?

The collection will not have a significant impact on small entities. Specific information is required before TTB could issue authorization for an otherwise prohibited activity, regardless of the applicant's size.

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?

By not collecting the information contained in this form, TTB could not correctly classify an alcohol beverage for tax and regulatory purposes and ensure that it is safe for consumption.

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.

A 60-day notice was published in the Federal Register (77 FR 10805) on Thursday, February 23, 2012. 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. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or policy.

The information collected on this form is considered confidential tax information and protected by 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?

The annual burden is computed as follows: there are 1,000 respondents that complete this form on average 4 times per year. Four thousand formulas are received annually and these formulas require, on average, 2 hours to complete. The annual burden is 8,000 hours for this information collection.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above?)

Clerical costs (filing, mailing, etc.)	\$ 4,000
Other Salary (assembling and gathering Information and completing the form)	20,000
Overhead	<u>2,000</u>
Total	\$26,000

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

Printing	\$ 1,000
Distribution	1,000
Clerical Cost (filing)5,000	
Other Salary (examination, Supervisory, etc.)	65,312
Overhead	<u>120,500</u>
Total	\$192,812

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

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

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?

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

- B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.