

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Requirement

OMB Control Number – 1513-0046

TTB F 5110.38 – Formulas for Distilled Spirits Under the Federal Alcohol Administration Act

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.

Any manufacture of a distilled spirits product which involves the blending, mixing, purifying or, refining, or a change in character, composition, class, or type, of spirits cannot be conducted by the proprietor until a formula is submitted to and approved by TTB. The formula, filed on TTB F 5110.38, must list all ingredients, and in some cases the process used. Under the Federal Alcohol Administration Act, all spirits in containers or a capacity of one wine gallon or less, except anhydrous (water removed) alcohol and alcohol which may be withdrawn free of tax under the internal revenue laws, are considered beverage distilled spirits. Formula requirements and description of the processing requirements which can change character, composition, class, or type of spirits are listed in 27 CFR Part 5. The following statutes and regulatory sections also require the collection of information contained in TTB F 5110.38:

26 U.S.C. 5222; 26 U.S.C. 5223; 26 U.S.C. 5232; 26 U.S.C. 5555; and  
27 U.S.C. 205(e).

27 CFR 5.27; 27 CFR 19.77; 27 CFR 26.50;  
27 CFR 26.54; and 27 CFR 26.197.

Changes in this supporting statement reflect changes to section numbers as recodified in the final rule (T.D. TTB-92, 76 FR 9080) for the revision of part 19 of the TTB regulations. (See also TTB Notice No. 83)

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?

TTB F 5110.38 is used during inspection and audits as our officers compare the formulas to the manufacturing records for compliance with the approved formula and payment of the proper tax. The information on the form assures that the product is being manufactured in accordance with the approved formula and the proper tax is being paid.

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?

The form requires a volume of information collected that is unique to each respondent and applicable only to the needs of each respondent. The use of improved technology for recording the information will be considered by TTB on a case-by-case basis. TTB F 5110.38 is available on the TTB.gov. At this time there is no reason to make this form capable of being submitted electronically. TTB F 5110.51 (1513-0122) was created to replace TTB F 5110.38 and all other forms of submitting formulas once it is widely used and the regulations are amended. TTB F 5110.38 will be discontinued.

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?

This information collection provides information that is pertinent to each respondent and applicable to his/her specific operation. 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?

This collection of information is not susceptible to reduced requirements for small business.

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?

If this information was not collected, TTB would not have a way of determining that a product is produced in compliance with an approved method, that the information on the label is correct, and that the appropriate amount of tax is applied. Respondents complete this information only as often as necessary to comply with applicable statutes and regulations.

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 NPRM for the revision to part 19 was published on May 8, 2008 (73 FR 26200). In response to Notice No. 83, TTB received 7 comments. Six of the comments expressed strong support for the revisions to part 19. No comments were opposed to changes that are affected by this information collection. A final rule (T.D. TTB-92, 76 FR 9080) was published to reflect the changes that were proposed in Notice No. 83, including a change to section numbers relevant to this collection.

A 60-day *Federal Register* notice was published for this information collection on Wednesday, November 9, 2012, 77 FR 67442. 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 remuneration 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 for this form; however, the confidentiality of the information collected on this form is protected by 26 U.S.C. 6103.

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?

There is no change in burden hours. There are 20 responses per 200 respondents. We estimate that it takes 1 hour per response for a total burden of 4,000 hours.

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)?

No cost is associated with this collection.

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

Estimates of annual cost to the Federal Government are as follows:

Printing and Distribution.....	\$	150
Clerical Cost .....		180
Other Salary (review, Supervisory, etc.).....		<u>1,080</u>
Total .....	\$	1,410

Request for hard copies of forms have decreased with the availability of forms on TTB.gov.

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

There are no program changes or adjustments associated with this collection. We are submitting this as a revision as advised by the OMB terms of clearance to incorporate final rule 27 CFR Parts 1, 17, 19, et al., *Revision of Distilled Spirits Plant Regulations* (February 16, 2011, at 75 FR 9080) with this information collection. The rule modernized requirement for operating distilled spirits plants and included a number of operational changes (renumbering) to improve the layout of the regulatory text.

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?

(c) See answer 5 above.

(i) No statistics are involved.

(j) See answer 3 above.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.