

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0021

TTB F 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? Also include the following: Align the information collection to TTB's Line of Business/Sub-function, and IT Investment, if one is used.

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.

This information collection is aligned with:

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?

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?

This form is fillable electronically and may be submitted via TTB's "Formulas Online" electronic filing system (FONL). Paper applications submitted by industry members are scanned, and uploaded as an attachment in FONL by the TTB Laboratory. Paper copies of this form are available for download from pay.gov in addition to TTB.gov.

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 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 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 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 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 Federal Register notice was published for this information collection on Tuesday, July 15, 2014, 79 FR 41357. 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 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? 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 Privacy Act System of Records notice (SORN) that has been issued for the electronic system in which the PII is being stored.

A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Regulatory Enforcement Records System and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001-Regulatory Enforcement Record System (76 FR 74847, December 1, 2011). The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

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; 74 percent of respondents report electronically using FONL and 26 percent continue to use paper. The estimated average number of hours per response shown below is based on information obtained from respondents.

| Format | # Respondents | # Responses Per Respondent | Annual Responses | Hours Per Response | Total Burden |
|--------|---------------|----------------------------|------------------|--------------------|--------------|
| Paper | 159 | 8 | 1,272 | 0.417 | 530 |
| FONL | 452 | 8 | 3,616 | 0.5 | 1,808 |
| Totals | 611 | 8 | 4,888 | 0.478 | 2,338 |

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 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 | \$ | 0 |
| Distribution | | 0 |
| Clerical Cost | | 312 |
| Other Salary (review, supervisory, etc.) | | <u>2,524</u> |
| TOTAL | \$ | <u>2,836</u> |

Printing and distribution costs have been deleted from TTB's cost estimate due to the various electronic methods that we have made available to the public to obtain copies of TTB forms. As a result, printing and distribution costs have decreased.

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

In decrease of 106 burden hours is due to the use of the FONL electronic filing system. The program change reflects a decrease in the time it takes to provide the information electronically.

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?

TTB is seeking approval to not display the expiration date for OMB approval of this collection because displaying the expiration date would make it necessary to update the electronic form and website where it is accessed after each renewal. Additionally, not displaying the expiration date on the form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue to be used regardless of when the OMB approval has expired. This would also reduce the difficulties experienced by the public when trying to determine when there are actual changes that require reduce costs incurred through desktop publishing.

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.