

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement -- Information Collection Request**  
**OMB Control Number 1513-0020**

Application for and Certification/Exemption of Label/Bottle Approval (TTB F 5100.31).

**A. Justification**

*1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.*

The Federal Alcohol Administration (FAA) Act, at 27 U.S.C. 205(e), provides the Secretary of the Treasury with authority to promulgate regulations with respect to the bottling, packaging, and labeling of distilled spirits, wine, and malt beverages in order to prohibit deception of the consumer, and to provide the consumer with adequate information as to the identity and quality of the product. In order to carry out such requirements, 27 U.S.C. 205(e) prohibits domestic bottlers and producers from bottling distilled spirits, wines, or malt beverages, and prohibits importers from removing bottled distilled spirits, wines, or malt beverages from customs custody, unless they have in their possession a certificate of label approval covering such products, "issued by the Secretary in such manner and form as he shall by regulations prescribe." The law also provides an exemption from these requirements for products that are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act and its related regulations pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary also has delegated various authorities through Treasury Department Order 120-01 to the TTB Administrator to administer and enforce the FAA Act.

The TTB regulations implementing the FAA Act provide that no person shall bottle or pack wine, distilled spirits, or malt beverages without first obtaining a certificate of label approval (COLA). See 27 CFR 4.50(a), 5.55(a), and 7.41. The TTB regulations also provide that no bottled wines, distilled spirits, or malt beverages shall be released from customs custody for consumption unless an approved COLA is deposited with the appropriate customs officer at the port of entry. See 27 CFR 4.40(a), 5.51(a), and 7.31(a). Industry members use TTB Form 5100.31 to submit the application for label approval and, if the application is approved, by TTB as the certificate of label approval.

TTB Form 5100.31 also is used to obtain approval for distinctive liquor bottles, pursuant to the TTB regulations at 27 CFR 5.46(d), 19.513, 26.314, and 27.204. Approval of a distinctive liquor bottle also includes the approval of the label on that bottle.

Under 27 CFR 4.50(b) and 5.55(b), a bottler of wine or distilled spirits who can show that the product is not to be sold, offered for sale, or shipped or delivered for shipment or otherwise introduced in interstate or foreign commerce shall be exempt from the requirement to obtain a certificate of label approval. Such bottler must make application for exemption from the labeling requirements of the FAA Act on TTB Form 5100.31 in accordance with the instructions on the form. If the application is approved, a certificate of exemption from label approval will be issued on the same form. Certificates of exemption from label approval are not issued for malt beverages.

The requirements to obtain a COLA or COLA exemption on TTB Form 5100.31, as required by the regulations noted above, is cross-referenced in the TTB regulations at 27 CFR 19.516, 24.258, 25.141(c), 25.142(e), 26.39, 27.58, 27.59, and 27.60.

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: Certificate of Label Approval Online (COLAs Online) system.

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

Label applications on TTB Form 5100.31 are prepared by the domestic entity that will bottle the distilled spirits, wine, or malt beverage. For imported items, the U.S. importer prepares the application. Completed applications are submitted to TTB's Advertising, Labeling and Formulation Division (ALFD) for review, analysis, determination of compliance with all statutory and regulatory requirements, and issuance or non-issuance of a COLA or exemption. If TTB approves an application and issues the certificate of label approval, the information collected on the application is made available for public viewing through the TTB Public COLA Registry. The information collected on the applications, regardless of whether the application is approved, may also be used by State agencies and other Federal agencies.

*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?*

Domestic bottlers and importers may submit COLA applications electronically via TTB's COLAs Online system (<http://www.ttb.gov/labeling/colas.shtml>), which has been in operation since May 2003. This system reduces the respondent burden associated with this information collection and allows faster processing times for TTB. Currently, TTB receives 93 percent of all COLA applications via the COLAs Online system.

Paper copies of TTB F 5100.31 are available as a fillable / printable form on the TTB website. Once received, TTB enters paper COLA applications into the COLAs Online database for identification and application tracking purposes.

When a label application is approved, the information provided on the COLA form is viewable online through TTB's Public COLA Registry.

4. *What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?*

Under the FAA Act, at 27 U.S.C. 205(e), alcohol beverage labels must be approved (or exempted) prior to bottling or removal, and industry members create these applications for label approval in accordance with TTB regulations for this purpose. The information regarding a beverage label is not available from any other source.

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

All entities, regardless of size, are required to provide this information in order for TTB to comply with its obligation to approve alcohol beverage labels under 27 U.S.C 205(e). This requirement cannot be waived simply because the respondent's business is small.

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?*

This information collection is required by statute at 27 U.S.C. 205(e). Respondents file a COLA application only as needed to comply with the statute. The information provided ensures that alcohol beverage labels do not mislead the consumer and that such labels provide the consumer with adequate information as to the identity and quality of the product. This information assists TTB in fulfilling its mission to protect the public.

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.*

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Friday, April 24, 2015, at 80 FR 23071. TTB received one comment in response, which supported the Bureau's initiative to include additional circumstances in which approved labels may be modified without submitting a new COLA application.

This comment also made several suggestions to include new provisions for the allowance of modifications to approved labels. After carefully reviewing those suggestions, TTB has modified Part V, Allowable Revisions to Approved Labels, of the form to include three new allowable revisions: (1) Clarifying that letters may be changed from upper case to lower case, and vice versa, as long as this complies with the regulations (see Part V, Item 3); (2) providing that recycling information about containers may be added, deleted, or changed (see Part V, Item 22); and (3) providing that the signature of the brewer, winemaker, or distiller or the product may be added, deleted, or changed (see Part V, Item 27).

The remaining suggestions require further study or could not be adopted without changes to our electronic systems; these will be considered by TTB for further action.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

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?*

The TTB regulations provide that pending and denied applications are treated as proprietary information, which is protected from disclosure under 5 U.S.C. 552, but that approved applications will be made available to the public in the TTB public reading room and on the TTB Web site. See 27 CFR 13.61. The Disclosure Statement on the form provides that the information on the form may be disclosed to other Federal, State, and local law enforcement and regulatory agency personnel to verify information on the application and to aid in the performance of their duties. The statement also notes that the information may be disclosed to the Justice Department if it appears that the furnishing of false information may contribute to a violation of Federal law. Finally, the form's Disclosure Statement notes that after TTB issues a certificate of label approval, a certificate of exemption from label approval, or a distinctive liquor bottle approval, copies of the approved applications are made available for public inspection.

11. *What is the justification 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 the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature.

A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Certificate of Label Approval Online system. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

This information collection is not included in TTB's Privacy Act System of Records Notice (SORN) since the information provided is used to identify businesses and business contacts. The Disclosure Statement on TTB Form 5100.31 includes the following statement: "After TTB issues a certificate of label approval, a certificate of exemption from label approval, or a distinctive liquor bottle approval, copies of the approved applications are made available for public inspection."

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

During FY 2014, 8,864 industry members filed an application for label approval or exemption. Based on the 142,444 applications received in that period, TTB estimates that each applicant submitted 16.07 applications. Also, TTB estimates that a respondent should be able to complete the form in approximately 31 minutes. Therefore, the total burden for this information collection is 73,596 hours.

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)?*

The labeling of alcohol beverage products by respondents to this information collection is a customary business practice. Any cost related to applying for a certificate of label approval is therefore negligible.

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

Estimates of annual cost to the Federal Government are:

Salary for processing	\$405,000
Imagining, data entry	\$313,000
Clerical Cost	\$139,000
Printing	\$ 1,000
Distribution	<u>\$ 500</u>
<b>TOTAL:</b>	<b>\$858,500</b>

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

On the TTB F 5100.31 form, TTB is making additions and clarifications to the list of allowable label revisions that do not require a respondent to submit a new COLA application, which are listed in Part V of the form. TTB is making these changes on its own accord and in response to a comment received on TTB F 5100.31. In the future, these additions to the list of allowable changes will lower the number of required responses to this information collection. Currently, due to continued growth in the alcohol beverage industry, TTB is updating the number of respondents, responses, and the total annual burden hours to reflect an increase in the number of respondents. The increase of 6030 burden hours is due to adjustments in the agency's estimates; 73,596 burden hours requested.

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

Once a label application is approved by TTB, the end result of this information collection—an approved COLA—is made available for public viewing on the TTB website on our Public COLA Registry (see <https://www.ttbonline.gov/colasonline/publicSearchColasBasic.do>). The publicly-disclosed nature of this information collection is explained to the respondent in the Disclosure Statement on the COLA application.

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?*

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on TTB Form 5100.31. By not displaying the expiration date of this collection on the related form, TTB will

not have to update the form's expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. More importantly, this avoids confusion among users of the form when the OMB approval date may have passed but the form is approved under interim short-term approvals while the form is under OMB review but before OMB has taken action. In addition, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale.

*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.