

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0118

Formulas for Fermented Beverage Products, TTB REC 5052/1.

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 Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine and beer) of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.), and the Federal Alcohol Administration Act (27 U.S.C. 201-211), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC and FAA Act administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

This information collection, which is submitted to TTB as a written notice, implements the regulatory requirement that a person qualified to produce or import beer, or import malt beverages, file a formula when certain ingredients or processes are used during production. This collection is necessary to (1) ensure that the Federal alcohol excise tax revenue due under the provisions of chapter 51 of the Internal Revenue Code (IRC) is not jeopardized for domestically made or imported beer, and (2) to ensure that the appropriate labeling provisions under the Federal Alcohol Administration Act (FAA Act) are met for imported products that meeting the FAA Act definition of malt beverage.

TTB has issued this information collection requirement under the authority of the IRC at 26 U.S.C. 5051, which imposes a Federal excise on beer, 26 U.S.C. 5052, which defines the term "beer," and 26 U.S.C. 7805, which authorizes the promulgation of "all needful rules and regulations for the enforcement" of title 26 of the IRC, including (through the delegation of authority by the Secretary of the Treasury) TTB's promulgating regulations implementing chapter 51. The TTB regulations implementing the provisions related to this information collection are set forth at 27 CFR 25.55 through 25.58.

In addition, TTB has issued regulations related to this information collection requirement under its FAA Act authority to regulate alcohol beverage labeling, as authorized in 27 U.S.C. 205(e). The relevant TTB regulation is found at 27 CFR 7.31(d).

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: Regulatory Major Application System.

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?

TTB will continue to approve, on a case-by-case basis, the use of improved information technology.

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?

TTB's approvals of a brewer's formula is valid until revoked or voluntarily surrendered. There is no requirement for a brewer to resubmit an approved formula on a periodic basis. 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 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 IRC and the FAA Act.

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 this information collection, TTB would not be able to assess compliance with Federal law and regulations or determine if there is jeopardy to the revenue. Failure to collect this information would adversely affect TTB's ability to ensure compliance with the standards for the production of beer and other fermented beverages and to ensure that the appropriate excise tax is being collected.

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 Friday, April 24, 2015, at 80 FR 23071. The notice solicited comments from the general public by June 23, 2015. TTB received no comments on this information collection.

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?*

Respondents submit this information collection as a letterhead notice, and no specific assurance of confidentiality is provided. However, the confidentiality of any proprietary information collected is protected from disclosure by 5 U.S.C. 552. In addition, taxpayer information is protected from disclosure by 26 U.S.C. 6103.

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 Regulatory Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

As provided under the TTB regulations, brewers must submit formulas for approval only for certain products. Thus, not every brewer submits formulas for approval. TTB estimates that approximately 505 brewers and importers will file an average of 2.625 fermented beverage product formulas per year. TTB further estimates that each formula requires one hour to complete, with 30 minutes related to recordkeeping and 30 minutes related to submission of the written formula notice.

Therefore, the total annual burden hours for this information collection are 1,326. (505 respondents x 2.625 annual responses = 1,326 responses x 1 hour per response = 1,326 burden 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)?

Salary levels of the personnel completing this information collection may vary significantly. Based on a high salary of \$75.00 per hour, the estimated annual costs of this information collection are allocated as follows:

Per respondent: $\$75.00/\text{hour} \times 2.625 \text{ responses} = \$196.88 \text{ per respondent.}$

Total industry cost: $75.00/\text{hour} \times 1,326 \text{ responses} = \$99,450.00.$

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

There is no cost to the Federal government for this information collection.

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

TTB reduced the number of formulas requiring submission by exempting a number of ingredients and processes that no longer require approval, which has significantly reduced formula submissions. However, the number of brewers and the number of their products regulated by TTB and introduced into the marketplace has increased. Therefore, we are updating the number of respondents and the total annual burden to reflect an increase in the number of respondents.

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?

Displaying the expiration date for OMB approval is not possible because this is a recordkeeping requirement and the formula is submitted to TTB as a letterhead notice. Unlike a form, this information collection does not have a medium on which to display an expiration date.

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.