

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0122

Information Collection Request Title:

Formula and Process for Domestic and Imported Alcohol Beverages

Information Collection Instruments Issued under this Title:

- TTB F 5100.51 — Formula and Process for Domestic and Imported Alcohol Beverages.
- Formulas Online (FONL) internet application.

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.

Legal Authority:

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.), as well as the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. chapter 8), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). Additionally, the Secretary of the Treasury has delegated certain IRC and FAA Act administrative and enforcement authorities to TTB via Treasury Department Order 120-01.

Provisions of chapter 51 of the IRC govern the production, classification, and taxation of alcohol products. The FAA Act at 27 U.S.C. 205(e) prohibits consumer deception and requires alcohol beverage labels to provide consumers with adequate information as to the identity and quality of alcohol beverages. The IRC and the FAA Act authorize the Secretary of the Treasury to issue regulations related to those activities. The TTB regulations issued under the authority of the IRC governing operations by proprietors of domestic distilled spirits plants, wineries, and breweries are found in 27 CFR parts 19, 24, and 25, respectively. The TTB regulations issued under the FAA Act governing the labeling of wine, distilled spirits, and malt beverages are found in 27 CFR parts 4, 5, and 7, respectively.

These regulations include rules for making and labeling the standard products of each commodity, which may be made without special TTB 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 be required to obtain formula approval from TTB in order to ensure that the product is properly classified for excise tax purposes under the IRC and that it is properly labeled under the FAA Act.

Use of TTB F 5100.51 and FONL as an Alternate Method:

The regulations prescribe the use of different forms and formats for the submission of distilled spirits, wine, or beer/malt beverage formulas. These requirements are approved under different OMB control numbers.

Proprietors may substitute TTB F 5100.51 or Formulas Online (FONL) for those prescribed forms and formats for formulas, pre-import letters, and products for laboratory analysis. TTB issued these information collection instruments to simplify the formula submission process and to provide a more consistent means of information collection across all commodity areas for both imported and domestic products.

TTB intends to pursue a regulatory change that will replace the various industry-specific forms and formats currently set forth in the TTB regulations with this information collection. Until such a change occurs, proprietors may voluntarily use TTB F 5100.51 or FONL as an alternate procedure authorized under the applicable alternate method or procedure provision in 27 CFR 19.62, 24.22, 25.52, 26.331, or 27.221. A producer or importer who wishes to use TTB F 5100.51 or FONL may submit that form or internet application in lieu of the prescribed forms and formats listed below without first requesting approval from TTB to do so.

Statutes and Regulations Related to This Information Collection:

Distilled Spirits:

For distilled spirits, the statutes authorizing the collection of information contained in this collection are found in the IRC at 26 U.S.C. 5222, 5223, 5232, and 5555, and in the FAA Act at 27 U.S.C 205(e). Under the TTB regulations in 27 CFR parts 5 and 19, whenever a 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, the proprietor must file a formula, listing the ingredients and the process used to make the product. The proprietor must receive approval of the formula before its use. Under the TTB regulations in 27 CFR part 26, persons in Puerto Rico and the Virgin Islands are required to submit formulas to TTB for distilled spirits products shipped to the United States.

Formula requirements for spirits issued under these statutes are found in the following regulations:

27 CFR 5.26	27 CFR 5.27	27 CFR 5.28	27 CFR 5.33(g)
27 CFR 5.51(d)	27 CFR 19.77	27 CFR 26.50(a)	27 CFR 26.54
27 CFR 26.197	27 CFR 26.220(a)	27 CFR 26.224.	

In addition, 27 CFR 19.314 and 19.348 cross-reference 27 CFR 5.26 and 5.27.

Wine:

For wine, the IRC contains a specific formula requirement in 26 U.S.C. 5386 for special natural wines, and 26 U.S.C. 5361, 5362(d), 5387, and 5388(b) authorize regulations governing the production of wines other than natural wines. Regulations issued under these statutes are found in 27 CFR parts 4, 24, and, for wine products produced in Puerto Rico or

the Virgin Islands, in 27 CFR part 26. Formula requirements are prescribed in the following regulations:

27 CFR 4.38(h)	27 CFR 24.80	27 CFR 24.81	27 CFR 24.82
27 CFR 24.86	27 CFR 24.87	27 CFR 24.198	27 CFR 24.214
27 CFR 26.50(b)	27 CFR 26.54	27 CFR 26.220(b).	

In addition, 27 CFR 24.192 cross references 27 CFR 24.80, and 27 CFR 24.196, 24.201, and 24.211 cross-reference 27 CFR 24.80 and 24.81.

Beer (Malt Beverages):

The IRC at 26 U.S.C. 5415 and 5555 requires brewers to file returns, reports, and statements as required by the regulations issued by the Secretary of the Treasury. Regulations in 27 CFR parts 7 and 25 require brewers to submit formulas to TTB for approval prior to importing or producing certain fermented brewery products. Standard beers made with only traditional flavoring ingredients and without using nontraditional processes do not require the submission and approval of formulas and/or samples 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. 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 products are found in the following regulations:

27 CFR 7.31(d)	27 CFR 25.53	27 CFR 25.55	27 CFR 25.56
27 CFR 25.57	27 CFR 25.58.		

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?*

In summary, the information received through the submission of TTB F 5100.51 or FONL allows TTB to determine if the applicant meets the requirements for the production or importation of the described product. TTB also uses the information in reviewing applications for label approval.

TTB reviews the information submitted on TTB F 5100.51 or FONL to determine:

- If the proposed ingredients are safe for human consumption (that is, all ingredients are U.S. Food and Drug Administration approved or Generally Recognized as Safe for food and beverage use);
- If approved production techniques are used;
- The applicable tax rate for the product;

- 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 unfit for beverage use.

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: This information collection is available as a fillable, fillable application in "Formulas Online" (FONL), TTB's web-based system for drafting, submitting, and tracking formula applications for domestic and imported alcohol beverages (see <http://www.ttb.gov/foia/fonl-main.shtml>). The FONL system streamlines the formula approval process. Through FONL, applicants are no longer required to submit formula and pre-import applications in duplicate. The respondent enters the required information directly into the appropriate fields of FONL and also uploads supporting documentation to the application. With the integration of FONL and COLAs Online, COLA applicants no longer have to supply paper copies of a particular formula along with a COLA application but may now select the appropriate formula from a drop down menu. TTB labeling specialists are then able to obtain all necessary information about a particular label and formula submission without having to access paper file records.

In FY 2014, 84 percent of formula submitters utilized FONL as their formula submission method. Although FONL offers electronic submission, respondents may not see a reduction in time to complete the application, but they may see a decrease in the amount of time it takes for them to receive a TTB determination (approval or rejection) notification.

TTB Website: This information collection also is available as a fillable, printable form, TTB F 5100.51, on the TTB website at <http://www.ttb.gov/forms/index.shtml>.

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 F 5100.51 and FONL collect information that is pertinent to each respondent and applicable to their specific formula and/or process. 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 does not have a significant impact on a substantial number of small businesses or other entities. The information required protects the revenue and protects the public from unsafe and mislabeled products, and, therefore, the information collection's requirements cannot be waived due to the size of the respondent's 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 TTB did not collect the information contained in this collection, it could not evaluate whether alcohol beverage products are: (1) Correctly classified for Federal excise tax purposes, (2) safe for consumption, and (3) not labeled in a deceptive or misleading manner.

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 May 28, 2015, at 80 FR 30539. TTB received no comments on this information collection in response.

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 Paperwork Reduction Act Notice included on TTB F 5100.51 and in FONL states, "The information collected on this form must be considered confidential tax information under 26 U.S.C. 6103, and must not be disclosed to any unauthorized party under 26 U.S.C. 7213." In addition, 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals.

TTB maintains the collected information in secure file rooms and computer systems with controlled access.

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?*

In FY 2014, 2,700 respondents filed this information collection an average of 5.2 times per year, resulting in 14,040 formula submissions. These submissions require, on average, two hours to complete, resulting in 28,080 total burden hours for this information collection. In summary:

	TTB F 5100.25	Formulas Online	Totals
Respondents	432	2,268	2,700
Responses	2,246	11,794	14,040
Burden Hours (@ 2 hrs per response)	4,492	23,588	28,080

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)?*

Clerical costs (filing, mailing, etc.)	\$ 4,200
Other Salary (assembling and gathering information and completing the form)	21,000
Overhead	2,100
TOTAL COSTS:	\$ 27,300

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

Estimates of annual cost to the Federal Government are:

Printing costs	\$ 0
Distribution costs	0
Clerical costs (filing)	5,250
Other Salary costs (review, supervisory, etc.)	68,580
Overhead	126,525

TOTAL COSTS:	\$ 200,355
--------------	------------

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the electronic availability of this information collection's form on FONL and on the TTB website forms page at <http://www.ttb.gov/forms/index.shtml>.

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

TTB is reporting an adjustment to the information collection's burden. The number of respondents and responses have increased due to an increase in the number of regulated industry members caused by continued growth in the alcohol beverage industry. TTB also is adding FONL as an information collection instrument under this information collection's title, and, because this collection is used to obtain a benefit, rather than mandatory, we are removing the mistaken "mandatory" entry for TTB F 5100.51 as an information collection instrument.

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

TTB 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?*

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 the paper form or on FONL. By not displaying the expiration date of this collection on the related forms, TTB will not have to update the expiration date in its electronic systems and on its website pages or on the collection's paper version each time the information collection is approved. More importantly, this avoids confusion among users of the collection when the OMB approval date may have passed but the form's approval continues 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 forms, including any versions of the forms 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.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.

