

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0046**

Information Collection Request Title:

Formula for Distilled Spirits under the Federal Alcohol Administration Act.

Information Collections Issued under this Title:

TTB F 5110.38, Formula 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 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 the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. chapter 8) and portions of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C. chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes)), 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 FAA Act and IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

The FAA Act at 27 U.S.C. 205(e) authorizes the Secretary of the Treasury to issue regulations regarding the labeling of distilled spirits, wine, or malt beverages to prohibit consumer deception regarding such products, to provide the consumer with adequate information as to the identity and quality of the products, and to require a statement of composition in certain cases of distilled spirits produced by blending or rectification or if neutral spirits were used in the production of a distilled spirits product. In addition, the IRC, at 26 U.S.C. 5222(c), 5223, and 5232, authorizes the Secretary to issue regulations regarding the removal and addition of extraneous substances to distilling materials and the redistillation of domestic and imported spirits. Also, the IRC at 26 U.S.C. 5555 authorizes the Secretary to issue regulations requiring persons subject to the alcohol excise tax to, among other things, keep such records and render such statements as the Secretary may prescribe by regulation.

Under these authorities, the TTB regulations require proprietors to obtain TTB approval of formulas for distilled spirits operations, such as blending, mixing, purifying, refining, compounding, or treating, that change the character, composition, class, or type of the spirits. Formula requirements and descriptions of the processing requirements that can change character, composition, class, or type of spirits are listed in 27 CFR Part 5, Labeling

and Advertising of Distilled Spirits. The formula, which may be filed on TTB F 5110.38, must list all ingredients, and in some cases the process used. Other TTB regulations also authorize the use of TTB F 5110.38 to obtain formula approval for distilled spirits beverage products. Specifically, these TTB regulations in 27 CFR authorize the use of TTB F 5110.38 for formula approval requests: §§ 5.26, 5.27, 19.77, 26.50(a), 26.53, and 26.54.

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?*

The information received through the submission of TTB F 5110.38 allows TTB to determine if the applicant meets the required formula requirements, to determine the product's class and type, and to ensure proper labeling of the product. TTB field personnel may also review this form to ensure a product is being manufactured in accordance with the approved formula and that the correct tax rate 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?*

TTB has approved and will continue to approve, on a case by case basis, the use of improved information technology for the collection and maintenance of required information.

TTB F 5110.38 is available on the TTB website as a fillable/printable form. TTB intends to phase out the use of TTB F 5110.38 in favor of TTB F 5110.51, Formula and Process for Domestic and Imported Alcohol Beverages (1513–0122), which is available for online completion and submission via TTB's Formulas Online (FONL) system.

*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 5110.38 contains information pertinent to each respondent and applicable to the specific issue of obtaining an approved formula for the respondent's product. However, industry members are increasingly using TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages and Formulas Online to submit distilled spirits formula approval requests to TTB. TTB plans to revise its regulations to discontinue the use of TTB F 5110.38 in favor of TTB F 5100.51 and Formulas Online.

*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 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 certain wine 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?*

TTB requires respondents to submit more than an original and two copies of TTB F 5110.38.

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 Wednesday, January 13, 2016, at 81 FR 1679. 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?*

No specific assurance of confidentiality is provided on this form. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by that section. TTB maintains these records in secure file rooms 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. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

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

For TTB F 5110.38, TTB estimates 30 respondents will submit 1 response on TTB F 5110.38 per year and that it requires each respondent 1 hour to complete the form, for a total of 30 annual burden 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)?*

There is no cost to respondents associated with this collection.

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

Estimates of annual cost to the Federal Government are:

Clerical costs	190
Other Salary costs (review, supervisory, etc.)	1,135
<b>TOTAL COSTS</b>	<b>\$ 1,325</b>

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB website ([www.ttb.gov](http://www.ttb.gov)).

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

There are no program changes associated with this collection. However, TTB is adjusting the burden associated with this collection. We are lowering this collection's estimated annual burden since most distilled spirits industry members now using TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages, approved under control number 1513-0122, to distilled spirits product formula approval requests. (TTB plans to phase out the use of TTB F 5110.38.)

On the form, we are updating the TTB headquarters address in the General Instructions and in the Paperwork Reduction Act statement.

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. 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. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any marginally-punched continuous printed versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on this 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 in use regardless of when OMB's approval has expired.

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.