

**DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

Supporting Statement — Information Collection Request

OMB Control Number 1513–0118

Information Collections Issued under this OMB Control Number:

- 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 implements the regulatory requirements that a person qualified to produce or import beer, or import malt beverages, file a new or superseding formula when certain non-traditional ingredients or processes are used during a product's production. This collection is necessary to ensure that: (1) the Federal alcohol excise tax revenue due under the provisions of chapter 51 of IRC is not jeopardized for domestic or imported beer, and (2) the appropriate labeling provisions of the FAA Act are met for imported products defined as malt beverages under that Act.

TTB has issued this information collection under the authority of the IRC at 26 U.S.C. 5051, 5052, 5415, and 5555, which, respectively, impose a Federal excise on beer, define the term "beer," require brewers to keep records as prescribed by the Secretary, and require persons liable to any tax imposed by chapter 51 of the IRC to keep records, render reports, and comply with the rules and regulations prescribed by the Secretary, and 26 U.S.C. 7805, which authorizes the Secretary to promulgate "all needful rules and regulations for the enforcement" of the IRC, including (through the delegation of authority by the Secretary) TTB's regulations implementing chapter 51. TTB's IRC-based regulations related to this information collection are set forth at 27 CFR Part 25, Beer, at §§ 25.55 through 25.58.

In addition, under its FAA Act authority at 27 U.S.C. 205(e) to regulate alcohol beverage labeling, TTB has issued regulations related to this information collection and imported malt beverages in 27 CFR Part 7, Labeling and Advertising of Malt Beverages, at § 7.31(d).

This information collection is aligned with —

- Line of Business/Sub-function: General Government / Taxation Management.
- IT Investment: Regulatory Major Application System.

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

TTB personnel examine the formula information submitted in the written notice to:

- Ensure that TTB has sufficient information concerning the formula and process for a non-traditional fermented beverage product;
- 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;
- Determine the source of alcohol and the amount of alcohol added to a fermented beverage product;
- Determine whether substances used during the product's production are Generally Recognized as Safe (GRAS) by the Food and Drug Administration or are otherwise safe for human consumption; and
- Determine whether food and color additives are within the limitations on their 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?

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.

Currently, formula and process statements for fermented beverages may be submitted to TTB on paper as letterhead notices. In addition, such letterhead notices may be electronically uploaded and submitted to TTB via our web-based Formulas Online (FONL) system (see <https://www.ttb.gov/formulation/fonl-main.shtml>).

(Respondents also may submit formula and process information for fermented beverage products by completing the data fields for alcohol beverage submissions in the FONL system; such submissions are covered under OMB Control No. 1513–0122, Formula and Process for Domestic and Imported Alcohol Beverages.)

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?

This information collection requires formula submissions for non-tradition fermented alcohol beverage products that are pertinent and specific to each respondent. As far as TTB can determine, similar information is not available to the Bureau 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. Respondents submit this information collection to TTB on an as-needed basis, and TTB requires only such information as is necessary to meet the statutory requirements of 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 a respondent's compliance with Federal laws and regulations regarding the formulation, production, and labeling of fermented beverages or determine if there is jeopardy to the revenue due to such formulations. Also, because respondents submit this information collection to TTB only on an as-needed basis, TTB cannot collect this information less frequently.

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 Wednesday, May 30, 2018, at 83 FR 24842. 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 information 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, 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 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. 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?*

As provided under the TTB regulations, brewers must submit formulas for approval only for certain non-traditional products. Thus, not every brewer submits formulas for approval. Based on recent data from the TTB office that processes this information collection, we estimate that approximately 550 brewers and importers will file an average of 3 fermented beverage product formulas per year, for a total of 1,650 responses per year. TTB further estimates that each formula requires one hour to complete, with 50 minutes related to submission of the written formula notice and 10 minutes related to recordkeeping. Therefore, we estimate the total annual burden hours for this information collection to be 1,650 hours.

(550 respondents x 3 annual responses = 1,650 responses x 1 hour per response = 1,650 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)?*

TTB estimates the cost to respondents resulting from this information collection as follows: \$4.00 per response in overhead and material costs, for a total of \$6,600 in such costs for this information collection. In addition, TTB estimates respondents have \$34.39 in salary costs per response, for a total of \$56,743.50 in such costs for this information collection. Therefore, the total estimated total cost to respondents resulting from this information collection is \$38.39 per response, for a total estimated cost of \$63,343.50 for this information collection request.

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

TTB estimates costs to the Federal government for this information collection to be \$82,500.00.

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

While TTB has reduced the number of formulas requiring submission by exempting a number of ingredients and processes from its formula approval requirements, which has reduced the number of formula submissions to TTB, the number of brewers regulated by TTB has significantly increased. Therefore, we are updating the number of respondents and the total annual burden associated with this information collection 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.*

TTB will not publish the results of this information 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?

There is no prescribed TTB form for this collection. Therefore, there is no medium for TTB to display the OMB approval 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.