

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement for Information Collection Request

Formula and Process for Non Beverage Products

OMB Control Number 1513–0021

Information Collections Issued under this Title:

- Formula and Process for Nonbeverage Products. (TTB F 5154.1 or Formulas Online (FONL)).

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), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) 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 administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax of varying rates on distilled spirits produced in or imported into the United States. However, the IRC at 26 U.S.C. 5111–5114 authorizes drawback (refund) of the excise taxes paid on distilled spirits that are subsequently used to make certain nonbeverage products. Specifically, to be eligible for nonbeverage product drawback, section 5111 requires that the taxpaid spirits in question must be used “in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are unfit for beverage purposes,” while section 5114 sets the per-proof gallon rate of such drawback at \$1.00 less than the rate at which spirits were taxpaid. To ensure that drawback claims are not fraudulent, section 5112 requires claimants to keep books and records substantiating the use of the spirits in question in the manufacture of eligible nonbeverage products, and it requires claimants to follow the regulations regarding such claims prescribed by the Secretary. In addition, to ensure the correctness of nonbeverage product drawback claims, section 5113 authorizes the Secretary to investigate any such claim.

The TTB regulations in 27 CFR Part 17, Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products, are issued, in part, under the authority of the IRC at 26 U.S.C. 5111–5114. The regulations at §§ 17.121, 17.122, 17.126, 17.127, 17.132, and 17.136 require manufacturers to submit quantitative formulas and statements of process on

form TTB F 5154.1 for all nonbeverage products for which drawback will be claimed. When requested by TTB, § 17.123 requires manufactures to submit additional statements of process and other data necessary for TTB to determine a product's drawback eligibility, while § 17.124 requires manufacturers to submit samples of intermediate and finished nonbeverage products and certain mixtures for TTB analysis. In addition, § 17.125 allows manufactures to submit a letterhead notices when adopting a formula for use at another plant operated by the manufacturer or when adopting a formula used by a predecessor proprietor.

These formula submission requirements enable TTB to ensure that products made with taxpaid distilled spirits are unfit for beverage use and are of the types authorized by the IRC for drawback. When TTB has determined whether a product is or is not fit for beverage use and is or is not eligible for nonbeverage product drawback under the IRC, TTB enters that information on the form and a copy is returned to the manufacturer.

Nonbeverage drawback claims are paid on a quarterly or monthly basis if filed within 6 months of the next succeeding quarter in which the taxpaid spirits in question were used in an eligible product's manufacture. However, TTB encourages manufacturers to submit formulas for nonbeverage product drawback approval before beginning mass production of a product made with taxpaid spirits. This procedure is beneficial for the manufacturer as it allows them to know in advance of actual manufacture if such a product is or is not eligible for drawback.

This information collection is aligned with —

- Line of Business/Sub-function: General government / Taxation management.
- IT Investment: Regulatory Major Application Systems.

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

Initially, TTB laboratory personnel use the formula and process information provided by respondents under this information collection request to determine whether or not a product made with taxpaid distilled spirits is eligible for drawback. The TTB lab makes this determination by ensuring that the product's formula and process make it unfit for beverage use and, if so, that it is one of the types of nonbeverage products authorized for drawback by the IRC. The TTB lab makes that determination once for each formula submitted and that determination is reported to the applicant.

Once a nonbeverage drawback claim is submitted, TTB field inspectors and National Revenue Center specialists may be assigned to investigate the correctness of the claim. By comparing the claimant's records and reports with the information on an approved nonbeverage product formula application, TTB personnel can ascertain whether the product has been made in conformity with its approved formula and is thus entitled to drawback.

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.

Electronic submissions: After registering online for its use, respondents may electronically submit nonbeverage product formulas, or upload letterhead formula adoption notices, via the TTB website using TTB's fillable, fileable, signable Formulas Online (FONL) system; see <https://www.ttb.gov/formulation/fonl-main.shtml>. FONL allows respondents to draft, submit, and track drawback such applications, and respondents may upload any required supporting documentation as attachments to the related FONL application.

Paper submissions: TTB F 5154.1 also is available at no cost to the public on the TTB website as a fillable-printable form (see <https://www.ttb.gov/forms/5000.shtml>). Respondents also may submit formula adoption notices as self-generated letterhead notices.

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 collection contains information pertinent to each respondent and applicable to the specific issue of submitting formulas and processes for nonbeverage products to TTB for the purposes of determining eligibility for drawback under the IRC. As far as TTB is able to determine, similar information in support of nonbeverage drawback claims 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?

All entities, regardless of size, are required by regulations issued under the authority of the IRC at 26 U.S.C. 5112 to submit the required formula and process information to TTB so that it can determine if products made with taxpaid distilled spirits are eligible for nonbeverage product drawback under the IRC. Because this determination is necessary to support nonbeverage drawback claims made to TTB, waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the revenue by allowing incorrect or fraudulent nonbeverage drawback claims to be paid.

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 conduct this information collection, it would not be able to determine if a product made with taxpaid distilled spirits is eligible for nonbeverage product drawback as authorized by the IRC at 26 U.S.C. 5111, and TTB would not be able to grant such drawback claims. In addition, respondents submit this information collection only once for each nonbeverage product formula used in manufacturing products for which they wish to claim drawback. As such, TTB cannot conduct this collection 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? (See 5 CFR 1320.5(d)(2).)

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 30, 2018, at 83 FR 24842. 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 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?

The Paperwork Reduction Act Notice included on TTB F 5154.1 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 TTB’s Regulatory Major Application Systems, which contains personally identifiable information (PII) collected under this request. A Privacy Act System of Records notice (SORN) has been issued for that system under TTB .001–Regulatory Enforcement Record System, which was published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB’s PIAs are available on the TTB website at <https://www.ttb.gov/foia/pia.shtml>.

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

Based on recent data from the TTB Laboratory, which processes nonbeverage product formula submissions, we estimate the annual burden for this information collection as follows:

Format*	No. of Respondents	Responses / Respondent	Annual Responses	Hours Per Response	Burden Hours
Paper (TTB F 5154.1)	150	13	1,950	0.5	975
FONL	255	50	12,750	0.5	6,375
Totals	405	(36.296)	14,700	0.5	7,350

* Each format includes the submission of any required product samples and any additional process statements or data required by TTB for formulas submitted via that format, and any letterhead formula adoption notices submitted to TTB via that format.

Record retention: Respondents must maintain a copy of the TTB F 5154.1 containing an approved nonbeverage product formula for as long as the respondent intends to claim drawback on that product. The FONL system maintains copies of TTB approval notifications sent via that system.

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)?*

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 \$58,800 in such costs for this information collection. In addition, TTB estimates respondents have \$17.20 in salary costs per response, for a total of \$252,840 in such costs for this information collection. Therefore, the total estimated total cost to respondents resulting from this information collection is \$21.20 per response, for a total estimated cost of \$311,640 for this information collection request.

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

TTB estimates the annual cost to the Federal Government for this information collection as follows:

Clerical costs	17,714
Other Salary costs (review, supervisory, etc.)	148,470
TOTAL COSTS	\$166,184

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 at <https://www.ttb.gov/>.

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

Program changes: As a matter of agency discretion, TTB has revised the TTB F 5154.1 form and its instructions for clarity, and has eliminated certain data fields and added others to better match the data collected by the Formula and Process for Nonbeverage Product approval application in its FONL system.

Specifically, TTB has removed fields that collected data regarding finished products that were to be used in alcohol beverages (item 12 on the previous edition of TTB F 5154.1) since that information is not needed for TTB to determine if the finished product described on the form is or is not fit for beverage use. TTB has added a data field for a respondent to supply a mailing address if different from the address where the product will be produced, and has added data fields for the product's theoretical yield, actual yield, density of the final product, manufacturing process, and unfit for beverage purposes statement (new Items 12a through 12e) to match data fields contained in the equivalent FONL application. In addition, TTB has revised the "For TTB Use Only" portion of the form to only state any sample and attachment identification number, and the submission identification number. TTB will no longer record the alcohol by volume percentage, the TTB analyst, and date in its section of the form. TTB does not believe that these changes to the form effect its estimated burden.

As for the instructions provided on TTB F 5154.1, TTB has grouped the instructions into General and Specific Instructions, has removed the requirement to submit the form in triplicate and the requirement to send a self-addressed stamped envelope with their submission, has updated the TTB Laboratory mailing address, and has noted that the information may be submitted to TTB via its FONL system. TTB also has updated the instructions to provide better guidance and examples, and to direct the respondent to the Drawback Tutorial on the TTB website (see <https://www.ttb.gov/ssd/drawbacktutorial.shtml>). TTB has also added a Privacy Act notice to the form.

Adjustments: Due to changes in agency estimates based on recent data supplied by the TTB Laboratory, which processes this information collection, we are decreasing the number of respondents, but we are increasing the number of responses filed per respondent, the total number of responses, and the resulting estimated burden hours. These increases result from more comprehensive data now available to TTB via its electronic FONL system and an increase in the number of nonbeverage product formulas submitted to TTB for evaluation as to their eligibility for drawback under the IRC.

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?*

As a cost-saving measure for both TTB and the general public, TTB requests approval to not display the expiration date for OMB approval of this information collection on the TTB F 5154.1 form or on its FONL equivalent. By not displaying the expiration date of this collection on the paper form or in FONL, TTB will not have to update the expiration date on

the FONL website pages or on the paper form each time the information collection is approved. More importantly, this avoids confusion among respondents to this information collection when the OMB approval date may have passed but the collection's approval continues under month-to-month approvals while the collection 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.