

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513–0020

Application for and Certification/Exemption of Label/Bottle Approval

Information Collection Instruments Issued under this Title:

- TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval.
- COLAs Online Applications (electronic equivalent to TTB F 5100.31).

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 Federal Alcohol Administration (FAA) Act, at 27 U.S.C. 205(e), authorizes the Secretary of the Treasury (the Secretary) to issue regulations regarding the packaging, marking, branding, labeling, size, and fill of containers of distilled spirits, wine, and malt beverages in order to prohibit consumer deception and the use of misleading statements in the marketing of such products, and ensure that consumers receive adequate information as to the identity and quality of such products. To carry out those consumer protection goals, 27 U.S.C. 205(e) prohibits persons from introducing or receiving domestic alcohol beverages into interstate or foreign commerce, and it prohibits importers from removing alcohol beverages in bottles from customs custody, unless they possess a "certificate of label approval" for the product "issued by the Secretary in such manner and form as he shall by regulations prescribe." Section 205(e) also provides an exemption from that label approval requirement for products that will not be sold or otherwise entered into interstate or foreign commerce.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act and its related regulations pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). The Secretary also has delegated various authorities to the TTB Administrator to administer and enforce the Act through Treasury Order 120–01.

The TTB regulations implementing the FAA Act's alcohol beverage labeling provisions are found in 27 CFR part 4 for wine, part 5 for distilled spirits, and part 7 for malt beverages. Specific to this information collection, the regulations at §§ 4.40(a), 5.51(a), and 7.31(a) provide that imported wine, distilled spirits, and malt beverages in consumer containers are not eligible for release from customs custody for consumption unless the person seeking the release has an certificate of label approval (COLA) for the product in question. Those regulations also require such persons to provide U.S. Customs and Border Protection (CBP) with the TTB-assigned COLA identification number for electronically-filed customs entries or

a copy of the COLA for non-electronic entries. The regulations at §§ 4.50(a), 5.55(a), and 7.41 provide that no person shall bottle, pack, or remove domestic wine, distilled spirits, and malt beverages unless they possess a COLA for the product. However, under §§ 4.50(b) and 5.55(b), a person who shows upon application that a wine or distilled spirits product will not be sold or otherwise entered in interstate or foreign commerce is exempt from the requirement to have a COLA for the product. (TTB does not require such exemption applications for malt beverages.) In addition, under §§ 5.46(d), 19.513, 26.314, and 27.204, distilled spirits bottlers and importers must apply for TTB approval of liquor bottles of distinctive shape or design.

Under the regulations noted above, respondents use form TTB F 5100.31 to submit applications to request: (1) COLAs for imported and domestic wines, distilled spirits, and malt beverages, (2) exemptions from label approval for wines and distilled spirits, and (3) approvals of distinctive liquor bottles. Respondents also may use that form to request TTB reconsideration of a previously rejected application. If approved, TTB certifies the application and returns a copy to the applicant, which serves as the product's COLA, exemption from label approval, or, for distinctive liquors bottles, a certificate of approval for both the bottle and its label.

The TTB regulations noted above that require respondents to use TTB F 5100.31 are cross-referenced elsewhere in the TTB regulations at 27 CFR 19.516, 24.258, 25.141(c), 25.142(e), 26.39, 27.58, 27.59, and 27.60.

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: COLAs Online system.

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

As required by the TTB regulations, respondents submit applications for COLAs, COLA exemptions, and distinctive liquor bottle approvals using TTB F 5100.31. TTB's Alcohol Labeling and Formulation Division (ALFD) examines the applications for compliance with TTB's labeling regulations and liquor bottle standards, as appropriate. If approved, ALFD staff certify the application and return a copy to the applicant, which serves as the product's COLA, exemption from label approval, or, for distinctive liquors bottles, certificate of approval for both the bottle and its label, as appropriate.

To meet TTB's statutory obligations under the FAA Act to review and approve alcohol beverage labels, TTB collects information regarding domestic and imported wine, distilled spirits, and malt beverages labels and distinctive liquor bottles in order to prohibit consumer deception and the use of misleading statements in the marketing of such products, and to ensure that consumers receive adequate information regarding the identity and quality of such products. In addition, State and other Federal agencies may use the collected information for enforcement and regulatory purposes.

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?

Domestic bottlers and importers may electronically submit COLA, COLA exemption, and distinctive liquor bottle applications via TTB's web-based COLAs Online system; see <https://www.ttb.gov/labeling/colas.shtml>. Currently, TTB receives 98 percent of all such applications via its COLAs Online system. The use of this system reduces application submission time for respondents and reduces processing time for TTB.

For paper filers, TTB F 5100.31 is available as a fillable/printable form on the TTB website; see <https://www.ttb.gov/forms/5000.shtml>. Once received, TTB enters paper applications into the COLAs Online database for identification and application tracking purposes.

In addition, TTB makes approved applications available for public viewing on its website via its Public COLA Registry (see <https://www.ttb.gov/labeling/cola-public-registry.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?

Applications for COLAs, COLA exemptions, or distinctive liquor bottle approvals made on TTB F 5100.31 or in COLAs Online collect information that is pertinent to each respondent and specific to the particular alcohol beverage product label or distinctive liquor bottle for which TTB approval is sought. Importantly, this information must be obtained and reviewed before the product enters commerce, in order to fulfill the requirements of the FAA Act. As far as TTB can determine, the collected information is not available to TTB elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

To meet the statutory requirements and consumer protection goals of the FAA Act regarding the labeling of alcohol beverages introduced into interstate or foreign commerce, TTB requires all entities, regardless of size, that domestically bottle or pack such products, or who import such products in consumer containers, to provide the collected information. As such, this information collection requirement cannot be waived or reduced simply because the respondent's business is small.

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?

TTB requires this information collection so that it can meet the statutory requirements and consumer protection goals of the FAA Act regarding the labeling of alcohol beverages introduced into interstate or foreign commerce. If TTB did not conduct this information collection, it would not be able to meet its obligations under that Act. Also, respondents submit the required information only on an as-needed basis, and, as such, this collection cannot be conducted on a less frequent basis. However, in an effort to reduce the burden on industry, TTB has established several allowable revisions to approved labels. While many changes to an approved COLA require a new COLA application, respondents may make allowable revisions to a COLA without submitting a new COLA application. These exemptions are listed on TTB F 5100.31 and are also available on the TTB website.

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 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 Friday, August 24, 2018, at 83 FR 42975. 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?*

Under the TTB label proceedings regulations at 27 CFR 13.61(a), information submitted on pending and denied applications for COLAs, COLA exemptions, and distinctive liquor bottle approvals is treated as proprietary information, which is protected from disclosure under 5 U.S.C. 552. However, § 13.61(a) states that TTB will disclose information from pending applications that include organic claims to the United States Department of Agriculture to ensure such labels comply with the National Organic Program rules. In addition, § 13.61(b) provides that TTB will make approved applications available for public viewing in its reading room and on its website via the Public COLA Registry (see <https://www.ttb.gov/labeling/cola-public-registry.shtml>).

The Disclosure Statement on the TTB F 5100.31, which is also posted in COLAs Online, gives notice to respondents that approved applications for COLAs, COLA exemptions, and distinctive liquor bottles will be made available for public inspection. The Disclosure Statement additionally states that the application’s information may be disclosed to other Federal, State, and local law enforcement and regulatory agency personnel to verify information on the application and to aid in the performance of their duties. The statement also notes that the information may be disclosed to the Justice Department if it appears that the furnishing of false information may contribute to a violation of Federal law.

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 Certificate of Label Approval Online system. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>. However, this information collection is not included in TTB's Privacy Act System of Records Notice (SORN) since the information provided is used to identify businesses and business contacts, and, in the Disclosure Statement included in the paper and electronic applications, TTB also gives notice that it will make approved applications available for public inspection.

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

Based on recent data, TTB estimates that 11,240 alcohol beverage industry members will annually file applications for COLAs, COLA exemptions, or distinctive liquor bottle approvals, and that each industry member files an average of 16.77 applications, resulting in a total of 188,495 responses to this information collection. TTB notes that 98 percent of all applications are submitted electronically via its COLAs Online system. TTB further estimates that each response, whether made using TTB F 5100.31 or COLAs Online, requires 31 minutes to complete, resulting in an estimated total of 97,389 burden hours for this information collection.

(11,240 respondents x 16.77 responses = 188,495 responses x 31 minutes = 5,843,345 minutes ÷ 60 minutes per hour = 97,389 hours.)

Recordkeeping: As a function of the relevant regulations, persons required to possess an approved COLA, COLA exemption, or distinctive bottle approval must retain the approved certificate application for as long as the covered product is labeled under that approval. In addition, under 27 CFR 4.40(a), 4.51, 5.51(a), 5.55(c), 7.31(a), and 7.42, persons holding originals or duplicates of approved certificates must make those applications available to duly authorized U.S. government officials, and, in the case of malt beverage-related certificates, duly authorized State and local officials.

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)?

The labeling of alcohol beverage products by their importers or domestic bottlers is a usual and customary practice undertaken during the normal course of business, regardless of any regulatory requirement to do so. As such, any cost to respondents related to applying for TTB approval of a COLA, COLA exemption, or distinctive liquor bottle is minimal.

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

Estimates of annual costs to the Federal Government for this collection are:

Activity	Cost
Staff salaries for processing	1,647,470
Imagining, data entry	150,000
Clerical costs	20,000
TOTAL	\$ 1,817,470

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 through the TTB website (<https://www.ttb.gov/forms/5000.shtml>).

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

There are no program changes associated with this information collection at this time. As for adjustments, due to changes in agency estimates, TTB is increasing the number of annual respondents, responses, and burden hours for this information collection because of continued growth in the number of alcohol beverage industry members and the number of products that they produce or import. Also, as a result of that growth and increases in the size of the ALFD staff who review label-related applications, TTB is reporting increases in its costs associated with this information collection. However, TTB notes that its cost increases are mitigated by the use of its electronic COLAs Online system. That system largely has replaced the submission of paper applications, which are more expensive to process.

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

TTB makes approved applications submitted under this information collection request available for public viewing in its Public Reading Room and on its website via its Public COLA Registry (see <https://www.ttb.gov/labeling/cola-public-registry.shtml>). TTB explains the publicly-disclosed nature of this information collection in the Disclosure Statement on the paper COLA application and posted in COLAs Online.

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 TTB F 5100.31 or in the COLAs Online system. By not displaying the OMB approval expiration date for this collection, TTB will not have to update that date on the paper form or on the COLAs Online website pages each time OMB approves the collection. This will avoid confusion among respondents when the collection's approval date may have passed but its approval continues on a month-to-month basis while it is under OMB review. In addition, respondents and other businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions produced for sale to others.

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.