

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0119

Certification of Proper Cellar Treatment for Imported Natural Wine

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.), as well as the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 201 *et seq.*, 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 (the Secretary) has delegated certain IRC and FAA Act administrative and enforcement authorities to TTB through Treasury Order 120–01.

Under the IRC at 26 U.S.C. 5382(a)(3), importers of natural wine produced after December 31, 2004, must provide the Secretary with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment. That IRC section also contains alternative certification requirements or exemptions for natural wine produced and imported under certain international agreements, and for such wine imported by an owner or affiliate of a domestic winery. In addition, for the purposes of providing consumers with adequate information regarding the identity and quality of alcohol beverages, the FAA Act at 27 U.S.C. 205 provides the Secretary with broad authority to issue regulations regarding the labeling of such beverages.

The IRC's provisions regarding certification of proper cellar treatment of imported natural wine are implemented in TTB's alcohol import regulations at 27 CFR 27.140. That section describes when wine importers or bottlers of wine imported in bulk must possess or present such certificates to TTB or U.S. Customs and Border Protection (CBP), and it describes the information required on, and the format of, those certificates. Section 27.140 also provides that natural wines imported under an international agreement specifying that the practices and procedures used to produce the wine are acceptable to the United States do not require a certificate, and that owners or affiliates of domestic wineries may self-certify proper cellar treatment for their imported natural wines. Finally, that section exempts from certification those wines produced before January 1, 2005, as well as those imported as commercial samples, those imported for personal or noncommercial use, and those held on international passenger carriers.

Under the authority of the FAA Act, TTB's wine labeling regulations at 27 CFR 4.45(b) provide that importers of natural wine who are required to possess a certificate of proper cellar treatment under 27 CFR 27.140 must also include a copy of that certificate when applying for the wine's certificate of label approval (COLA).¹ Section 4.45(b) states that such certificates are valid for multiple imports of the same wine, and it notes that TTB will make submitted certificates available to the public on its internet website. In addition, § 4.45 provides that TTB may use a certificate's information to verify the wine's labeled class and type designation.

This information collection is necessary to meet the IRC's statutory requirements regarding certification of proper cellar treatment for imported natural wine. In addition, the required information allows TTB to verify that such wines are properly labeled under the FAA Act.

This information collection is aligned with—

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: None.

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

TTB uses this information collection to meet the IRC's statutory requirements regarding the certification of proper cellar treatment for imported natural wine. TTB also may use the collected information to verify certain label information for imported natural wines under its FAA Act authority, which requires alcohol beverage bottlers to provide consumers with adequate information regarding the identity of such products.

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?*

The TTB regulations at 27 CFR 27.140 specify the information required on, and the format of, proper cellar treatment certificates for imported natural wine, and many respondents use their own electronic systems to produce and maintain them. When filing import entries for natural wine with CBP, importers upload copies of the required certificates, or attest to their possession of them, using CBP's the electronic Automated Commercial Environment (ACE) system (see <https://www.cbp.gov/trade/automated>). Also, nearly all respondents required to provide proper cellar treatment certificates to TTB as part of a COLA application do so electronically via TTB's COLAs Online system (see <https://www.ttb.gov/labeling/colas>). Finally, as stated in 27 CFR 4.35(b)(3), TTB posts the certificates of proper cellar treatment it receives to its website and respondents may use posted certificates in lieu of obtaining an original certificate (see <https://www.ttb.gov/wine/import-certifications-on-file-with-ttb>).

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?*

¹ The collection of COLA applications, including any required attachments, is approved under OMB control number 1513-0020.

Certificates of proper cellar treatment for imported natural wine are required by statute and contain information that is pertinent to each respondent and specific to the imported wine in question. As far as TTB can determine, similar information is not available to the Bureau elsewhere. Importers may, on occasion, present such certificates to TTB and also to CBP, but TTB believes such duplication is minimal.

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

Certificates of proper cellar treatment for imported natural wine are required by statute, and, as such, TTB cannot waive or reduce the requirements of this information collection for any respondent, regardless of size. However, TTB notes that, under statutory exemptions, those importing natural wine under certain international agreements do not have to provide such certificates, and owners or affiliates of domestic wineries may self-certify proper cellar treatment of their imported natural wines. As those exemptions cover almost all natural wine imported into the United States, TTB believes this information collection does not have a significant impact on a substantial number of small entities.

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 considers this information collection requirement to be the minimum necessary to comply with the proper cellar treatment certification for imported natural wine requirement contained in the IRC at 26 U.S.C. 5382(a)(3). Collecting the required information less frequently or not at all would be inconsistent with that statute.

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).)

Under the OMB regulations at 5 CFR 1320.5(d)(2)(iv), a requirement to retain records for more than three years is a special circumstance. Under the TTB regulations at 27 CFR 4.45(c), respondents that are required to possess a certificate of proper cellar treatment for imported natural wine must retain a copy of the certificate for five years following the date of the certified wine's removal of from customs custody. TTB has determined that some wines remain in the stream of commerce for more than three years after their production or importation. Therefore, retention of copies of the required certificates is necessary to allow TTB to verify that imported natural wine has met the IRC's statutory requirements regarding possession by importers of certificates of proper cellar treatment, and is necessary to allow TTB to verify certain label information for such wines under its FAA Act authority.

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 Tuesday, January 7, 2020, at 85 FR 785. 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?*

TTB provides no assurance of confidentiality to respondents to this information collection. As stated in 27 CFR 4.35(b)(3), certificates of proper cellar treatment for imported natural wine submitted to TTB by respondents are disclosed to the public via posting on the TTB website (see <https://www.ttb.gov/wine/import-certifications-on-file-with-ttb>).

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, and it does not collect personally identifiable information (PII) in a Government 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?*

Burden estimate: Based on recent data, TTB estimates 50 respondents will make one annual response to this information collection, for a total of 50 annual responses. TTB also estimates that each response takes 20 minutes to complete, for an estimated total annual burden of 17 hours for this information collection.

Record retention: Per 27 CFR 27.140(b)(1), respondents must retain the required proper cellar treatment certificates for 3 years, while 27 CFR 4.45(c) requires respondents to retain any certificates submitted as part of a COLA application for a period of five years.

Labor cost burden: TTB estimates the respondent labor cost burden for this information collection as follows:

Labor Category	Fully-loaded Labor Rate/Hour ²	Time/ Response	Labor Cost/ Response	Total Labor Costs for 50 Annual Responses
Clerical & other unskilled workers	\$27.30	10 minutes	\$4.55	\$227.50
Professional & managers	\$44.30	10 minutes	\$7.38	\$369.00
TOTALS	\$35.80 (on average)	20 minutes	\$11.93	\$596.50

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 are no annualized capital or start-up costs to respondents associated with this collection. The information contained on the required certificates is provided to respondents by the relevant foreign governments, or respondents use copies of certificates previously submitted to TTB.

14. *What is the annualized costs to the Federal Government for this information collection?*

TTB estimates annualized costs to the Federal Government for this information collection as follows: \$50.00 for overhead and \$637.00 in salary and benefit costs, for a total cost to TTB of \$687.00.³

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

There are no program changes associated with this information collection.

As for adjustments, due to changes in agency estimates, TTB is reducing the estimated numbers of annual respondents, responses, and burden hours associated with this information collection. Under the IRC at 26 U.S.C. 5382(a)(3), importers of natural wine produced after December 31, 2004, must provide the Secretary with a certification from the government of the producing country that the practices and procedures used to produce the wine constitute proper cellar treatment. However, that section also provides that wines may be imported into the United States without such a certificate if exempted under an international agreement. Since the adoption of IRC section 5382(a)(3) in 2004, the United

² Fully-loaded Labor Rate/Hour = Hourly wages plus benefits. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312000—Beverage and Tobacco Product Manufacturing, TTB estimates the fully-loaded labor rate for respondents as follows: (1) Clerical and other unskilled workers (Office and Administrative Support Occupations) = \$27.30 per hour (\$18.96 wages and \$8.34 benefits); and (2) Professional and managers (Business and Financial Operations Occupations) = \$44.30 per hour (\$30.76 wages and \$13.54 benefits). See: https://www.bls.gov/oes/current/naics3_312000.htm, and <https://www.bls.gov/news.release/ecec.t04.htm>.

³ Federal Government Fully-loaded Labor Rate = Hourly wage plus benefits; calculated as hourly wage x 1.63. Therefore, in the Washington, DC, locality pay area: One GS-12, step 5, reviewer hourly wage of \$46.88 x 1.63 = \$76.41 per hour labor rate (benefits = \$29.53 per hour) x 10 minutes per response = \$12.74 per response x 50 responses = \$637.00 total Federal labor costs. See <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/> and <https://www.cbo.gov/sites/default/files/112th-congress-2011-2012/workingpaper/2012-04fedbenefitswp0.pdf>.

States has entered into wine production agreements with over 30 countries, including all of the world's largest wine producing nations.⁴ Therefore, the great majority of wines imported into the United States are now exempt from the IRC's requirement to possess a certificate of proper cellar treatment for that wine. In addition, TTB posts the certificates it does receive to its website, and other importers may reference such certificates in lieu of providing an original certificate. As a result, TTB's estimated annual burden for this information collection has decreased significantly, from 4,000 respondents, 20,000 responses, and 6,600 hours, to 50 respondents, 50 responses, and 17 hours.

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

As stated in 27 CFR 4.35(b)(3), TTB posts the submitted certificates of proper cellar treatment for imported wine it receives for public viewing on its internet website (see <https://www.ttb.gov/wine/import-certifications-on-file-with-ttb>). On that TTB webpage, the posted certificates are first indexed by the year of importation, then by the country of origin, and then by the producing company's name.

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 specified TTB paper or electronic collection instrument associated with this information collection, and the submitted certifications are prepared by the respondent. Therefore, there is no medium on which TTB can display the OMB expiration date for this information collection.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (g) There is no TTB-issue collection instrument associated with this information collection and the submitted certifications are prepared by the respondent. As such, there is no prescribed medium for TTB to inform respondents of the information called for under 5 CFR 1320.8(b)(3).
- (i) No statistical survey methodology is involved.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

⁴ TTB has entered into wine trade agreements with the nations of the European Union, and with the other nations of the World Wine Trade Group (Argentina, Australia, Canada, Chile, Georgia, New Zealand, South Africa, and Uruguay). See <https://www.ttb.gov/wine/countries-with-enological-practices-agreements-with-the-u-s>.