

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

**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0122**

**Formula and Process for Domestic and Imported Alcohol Beverages**

**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.*

General Legal Authority

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.), as well as the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. chapter 8), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). Additionally, the Secretary of the Treasury (the Secretary) has delegated certain IRC and FAA Act administrative and enforcement authorities to TTB via Treasury Department Order 120–01.

In general, provisions of chapter 51 of the IRC govern the production, classification, and taxation of alcohol products, and the IRC at 26 U.S.C. 5555 authorizes the Secretary to issue regulations requiring persons subject to tax to, among other things, keep such records and render such statements as the Secretary may prescribe by regulation. The FAA Act at 27 U.S.C. 205(e) prohibits consumer deception in alcohol beverage labeling and advertising, and it requires alcohol beverage labels to provide consumers with adequate information as to the identity and quality of alcohol beverages. That FAA Act section also authorizes the Secretary to issue regulations regarding alcohol beverage labeling and advertising.

The TTB regulations issued under the authority of the IRC that govern operations by proprietors of domestic distilled spirits plants, wineries, and breweries are found in 27 CFR parts 19, 24, and 25, respectively. The TTB regulations issued under the FAA Act that govern the labeling of wine, distilled spirits, and malt beverages are found in 27 CFR parts 4, 5, and 7, respectively. IRC and FAA Act-based formula submission requirements also appear in 27 CFR part 26, which contains regulations related to alcohol products brought into the United States from Puerto Rico and the Virgin Islands.

Under those TTB regulations, proprietors generally do not need TTB preapproval to manufacture traditional or standard alcohol beverage products. However, if a proprietor wishes to manufacture a non-standard distilled spirit, wine, beer, or malt beverage product, the TTB regulations may require that such proprietors submit a formula, which also may require submission of samples and/or a statement of process, before beginning production. Such formulas allow TTB to determine that the product in question is properly classified for excise tax purposes under the IRC and that it is properly labeled under the FAA Act.

Use of TTB F 5100.51 or FONL as an Alternate Method:

The TTB regulations prescribe the use of different, commodity-specific forms or letterhead notices for the submission of distilled spirits, wine, or beer/malt beverage formulas, which are approved under various other OMB control numbers.<sup>1</sup> However, under this control number, OMB No. 1513–0122, proprietors may substitute form TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages, or its electronic equivalent in TTB’s Formulas Online (FONL) system for those prescribed commodity-specific information collections. TTB has issued these two comprehensive information collection instruments to simplify the formula submission process and to provide a more consistent means of information collection across all commodity areas for both domestic and imported alcohol beverage products.

In the future, TTB intends to pursue regulatory changes that will replace the various commodity-specific information collections currently set forth in the TTB regulations with this information collection. Until those regulatory changes occur, proprietors may voluntarily use TTB F 5100.51 or FONL as an authorized alternate method or procedure for submitting any required alcohol formulas.

Commodity-specific Statutes and Regulations Related to This Information Collection

*Distilled Spirits:*

The IRC, at 26 U.S.C. 5201 requires proprietors to conduct all operations at distilled spirits plants under the regulations the Secretary prescribes. Also, the IRC at U.S.C. 5222(c), 5223, and 5232 authorizes the Secretary to issue regulations regarding, respectively, the removal and addition of extraneous substances from distilled spirits, the redistillation of distilled spirits, and the import of distilled spirits brought into the United States in bulk containers. In addition, the FAA Act at 27 U.S.C. 205(e) authorizes the Secretary to issue regulations regarding the labeling of distilled spirits to prohibit consumer deception and to provide the consumer with adequate information as to the identity and quality of the products. That section also allows the Secretary 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.

Under those statutory authorities, the TTB regulations in 27 CFR parts 5 and 19 require proprietors to submit a formula, listing the ingredients and process used to make a product, whenever the proprietor intends to blend, mix, purify, refine, compound, or treat distilled spirits in a manner that changes the character, composition, class, or type of the spirits. The proprietor must receive approval of the formula before its use. Under the TTB regulations in 27 CFR part 26, persons in Puerto Rico and the Virgin Islands are required to submit formulas to TTB for distilled spirits products brought into the United States. Those regulations are found specifically at 27 CFR:

5.26	5.27	5.28	5.33(g)	19.77	26.50(a)
26.53	26.54	26.197	26.220(a)	26.223 and	26.224.

<sup>1</sup> See OMB No. 1513–0046, Formula for Distilled Spirits under the FAA Act, OMB No. 1513–0010, Formula and Process for Wine; and OMB No. 1513–0118, Formulas for Fermented Beverage Products.

In addition, 27 CFR 19.314 and 19.348 cross-reference 27 CFR 5.26 and 5.27.

*Wine:*

For wine, the IRC contains a specific formula requirement in 26 U.S.C. 5386 for special natural wines, while 26 U.S.C. 5361, 5362(d), 5387, and 5388(b) authorize regulations governing the production of wines other than natural wines. In addition, the FAA Act at 27 U.S.C. 205(e) authorizes the Secretary to issue regulations regarding the labeling of wines to prohibit consumer deception and to provide the consumer with adequate information as to the identity and quality of such products.

In general, under those statutory authorities, the TTB regulations require proprietors to submit formulas when they intend to produce special natural wine, agricultural wine, other than standard wine, or nonbeverage wine. The TTB regulations requiring the submission of such formulas are found in 27 CFR parts 4 and 24, and in 27 CFR part 26 for wine products produced in Puerto Rico or the Virgin Islands. Specifically, formula requirements for wine are prescribed at 27 CFR:

4.38(h)	24.80	24.81	24.82	24.86	24.87
24.192	24.195	24.196	24.198	24.201	24.211
24.214	26.50(b)	26.53	26.54	26.220(b)	26.223 and
					26.224.

*Beer (Malt Beverages):*

The IRC at 26 U.S.C. 5415 and 5555 requires brewers to file returns, reports, and statements as required by the regulations prescribed by the Secretary. The IRC at 26 U.S.C. 7805 also authorizes the Secretary to promulgate “all needful rules and regulations for the enforcement” of chapter 51 of the IRC, which includes the TTB beer-related regulations prescribed in 27 CFR part 25. In addition, under its FAA Act authority at 27 U.S.C. 205(e) to regulate alcohol beverage labeling, TTB has issued regulations requiring the submission of formulas for imported malt beverages in 27 CFR part 7.

Under its IRC authorities, prior to producing certain non-standard fermented brewery products, the TTB regulations in 27 CFR part 25 require brewers to submit formulas, including descriptions of any unusual production processes, to TTB for approval prior to beginning production. Such products include those that undergo nontraditional treatments such as filtration that changes the product’s color, flavor or character, separation of beer into different components, reverse osmosis, concentration, or ion exchange. TTB also requires formulas for fermented products to which producers will add nonbeverage ingredients, nontraditional coloring or natural or artificial flavors, or fruit, fruit juice or concentrate, herbs, spices, honey, maple syrup, or other food materials. Additionally, brewers must submit formulas for any saké they produce, including flavored and sparkling saké. Under its FAA Act authority, the TTB regulations in 27 CFR part 7 require certain importers to submit formulas for malt beverage products prior to or in conjunction with the filing of a certificate of label approval (COLA) for the product.<sup>2</sup> Specifically, TTB prescribes formula requirements for fermented products in 27 CFR:

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<sup>2</sup> See OMB No. 1513–0020, Application for and Certification/Exemption of Label/Bottle Approval.

7.31(d) 25.53 25.55 25.56 25.57 and 25.58.

Line of Business and IT Investment:

This information collection is aligned with —

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

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

When required by statute or regulation, alcohol beverage producers and importers must submit formulas to TTB for certain non-standard or non-traditional distilled spirits, wine, beer, or malt beverage products. In addition, TTB may require such persons to submit samples and/or a statement of process. The collected information allows TTB to determine that the product in question is properly classified for excise tax purposes under the IRC and is properly labeled under the FAA Act. In addition, the required information allows TTB to ensure that the proposed ingredients are safe for human consumption as recognized as safe for human consumption by the U.S. Food and Drug Administration, and ensure that nonbeverage wine (withdrawn free of tax under the provision of 26 U.S.C. 5362(d)), has been rendered unfit for beverage 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?*

Electronic Submissions: On TTB's website, respondents may electronically complete, sign, and file alcohol beverage formula submissions using the Formulas Online (FONL) system; see <https://www.ttb.gov/formulation>. FONL also allows respondents to attach any required supporting documents, and to track their formula approval applications.

Paper Submissions: Respondents also may complete and submit via postal mail a fillable-printable paper form, TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages. This form is available to respondents on the TTB website at no cost; see <https://www.ttb.gov/forms>.

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 gathers information that is pertinent to each respondent and applicable to their specific alcohol beverage product formula approval request. 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?*

As authorized by statute, TTB collects the required formula information to protect the revenue and to protect the public from unsafe or mislabeled alcohol beverage products. As

such, TTB cannot waive this collection's requirements because of the size of a respondent's business. TTB notes that respondents only submit the collected information on an as-needed basis when its regulations require approval of a new or revised formula for certain non-standard or non-traditional products. As such, TTB believes that this information collection does not have a significant impact on a substantial number of small businesses.

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 non-standard or non-traditional alcohol beverage products are: (1) correctly classified for excise tax purposes, (2) safe for consumption, (3) produced using approved processes and techniques, and (4) 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? (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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on September 16, 2021, at 86 FR 51720. 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 5100.51 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. 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?

Estimated Respondent Burden: Based on recent data, TTB estimates the annual respondent burden for this information collection to be as follows:

Collection Instrument	Respondents*	Avg. Responses per Respondent	Total Responses	Hours per Response	Total Annual Burden Hours
Formulas Online (FONL)	4,300	6.6	28,380	2 hours	56,760 hrs.
Paper (F 5100.51)	25	6.6	165	2 hours	330 hrs.
<b>Totals</b>	<b>4,325</b>	<b>6.6</b>	<b>28,545</b>	<b>2 hours</b>	<b>57,090 hrs.</b>

\* TTB estimates that 99.4 percent of respondents electronically submit alcohol beverage formulas to TTB using the Formulas Online (FONL) system.

Estimated Respondent Labor Costs: TTB estimates respondent “fully-loaded” labor costs for this information collection as shown below.<sup>3</sup>

<b>NAICS 312100 - Beverage Manufacturing – Food Scientists and Technologists</b>					
<b>Fully-loaded Labor Rate/Hour= \$50.11*</b>					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
2 hours	\$100.22	6.6	\$661.45	28,545	\$2,860,779.90

\* Fully-loaded labor costs rounded to the nearest whole cent.

Respondent Record Retention: Approved certificates of label approval (COLAs) include any required formula approval. As approved under the COLA information collection (OMB No. 1513–0020), importers and domestic bottlers holding an original or duplicate COLA are required to present a copy of that COLA to any authorized TTB officer for as long as that COLA is in use. See the COLA retention requirements at 27 CFR 4.40, 4.51, 5.51, 5.55, 7.31 and 7.4.

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)?

<sup>3</sup> Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Based on the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), hourly wage data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Food Scientists and Technologists (19–1012) is \$50.11 (\$34.81 mean hourly wage plus \$15.30 in benefit costs). See the BLS website at [https://www.bls.gov/oes/current/naics4\\_312100.htm](https://www.bls.gov/oes/current/naics4_312100.htm).

The development, evaluation, and use of formulas to produce alcohol beverage products is a usual and customary practice undertaken during the normal course of business, and, as such, TTB believes that respondents have no capital, start-up, or ongoing maintenance costs for this information collection. As for other costs, respondents using the FONL system to submit formula approval requests to TTB have no mailing supply or postage costs. TTB estimates that the 25 respondents who submit formula approval requests using paper form TTB F 5100.51 have up to \$10.00 in mailing supply and postage costs per response. Given the average of 6.6 annual responses per respondent to this information collection, this totals \$66.00 in such costs per respondent and \$1,650.00 in such costs per year.

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

TTB estimates labor costs to the Federal government for this information collection as follows:

<b>Labor Costs for TTB Personnel (Washington, DC Pay Area) for OMB No. 1513-0122*</b>					
Position & (No. of Positions)	Fully-loaded Labor Rate/Hour <sup>4</sup>	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-9, Step 5 Specialist (1)	\$53.22	0.2 hour	\$10.64	5,234	\$55,689.76
GS-12, Step 5, Specialist (4)	\$77.18	0.2 hour	\$15.44	20,936	\$323,251.84
GS-13, Step 5, Sr. Specialist (1)	\$91.79	0.4 hour**	\$36.72	2,375	\$87,210.00
<b>Totals</b>			<b>(avg. \$16.33)</b>	<b>28,545</b>	<b>\$466,151.60</b>

\* Labor costs rounded to the nearest whole cent.

\*\* Due to complexities, approximately 8 percent of submissions require longer review by a senior specialist.

As for other costs, TTB estimates it has \$45,000.00 in imaging and support service costs, and \$500 in office supply costs for this information collection. However, TTB’s printing and distribution costs have decreased to \$0.00 due to the use of the FONL system and the availability of TTB F 5100.51 on the TTB website forms page at <https://www.ttb.gov/forms>. As such, the total costs to the Government for this information collection are \$511,651.60.

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 estimated number of annual respondents, responses, and burden hours for this information collection

<sup>4</sup> Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for Federal employees in the Washington, DC wage area are: (1) GS-9, Step 5 = \$53.22/hour (\$32.65 in wages plus \$20.57 in benefits); (2)GS-12, Step 5, = \$77.18/hour (\$47.35 in wages plus \$29.83 in benefit costs); and (3) GS-13, Step 5 = \$91.79/hour (\$56.31 in wages plus \$35.48 in benefits). See the OPM website at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf).

because of continued growth in the number of alcohol beverage importers and producers, and in the number of products that require formula approval. TTB has increased the estimated number of annual respondents from 2,937 to 4,325, the number of responses from 14,485 to 28,545, and the number of burden hours from 28,970 to 57,090.

On form TTB F 5100.51, in the Paperwork Reduction Act Notice, TTB is revising the title of the person to whom comments regarding the information collection and its burden are directed, from "Reports Management Officer," to "Paperwork Reduction Act Officer, and is adding a reminder to respondents not to mail completed forms to the comment submission address.

*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?*

TTB will display the expiration date for OMB approval for this information collection on its related form, TTB F 5100.51.

*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 information collection does not employ statistical methods.