

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0118

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 (relating to 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 (FAA 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 (the Secretary) has delegated certain IRC and FAA Act administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

Under the authority of IRC excise tax, recordkeeping, reporting, and regulatory compliance provisions at 26 U.S.C. 5051, 5052, 5415, 5555, and 7805, the TTB regulations in 27 CFR Part 25, Beer, require beer producers to file a formula when they use certain non-exempted ingredients, flavors, colors, or processes to produce a non-standard fermented beverage (beer) product. In addition, under the authority of FAA Act alcohol beverage labeling provisions at 27 U.S.C. 205(e), the TTB regulations in 27 CFR Part 7, Labeling and Advertising of Malt Beverages, require importers to submit formulas for certain malt beverage products if required to by the appropriate TTB officer. TTB's IRC-based regulations related to this information collection are found at 27 CFR 25.55 through 25.58, while TTB's FAA Act-based regulations are found at 27 CFR 7.31(d).

This information collection, which respondents submit to TTB as a written notice, is necessary to ensure that the excise tax provisions of the IRC are appropriately applied to non-standard fermented beverage products, and that the alcohol beverage labeling provisions of the FAA Act are properly applied to certain imported malt beverage products.

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 uses the formula information submitted under this collection requirement to determine the tax classification of non-standard fermented beverage products under the IRC, and to

ensure that certain imported malt beverage products are properly labeled under the FAA Act. TTB also uses the collected information to determine if the substances used in such products are Generally Recognized as Safe (GRAS) for human consumption by the Food and Drug Administration, and to determine if 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?

Submitted as a written notice, respondents may submit fermented beverage product formula statements to TTB on paper, or they may electronically upload and submit such statements via TTB's web-based Formulas Online (FONL) system (see <https://www.ttb.gov/formulation>).

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 request, approved under OMB No. 1513–0118, contains information pertinent to each respondent and specific to a particular fermented beverage product formula for which the respondent is seeking TTB approval. As far as TTB can determine, it does not collect duplicate formula information. However, TTB notes that, in lieu of the written notice submitted under this collection request, respondents may use TTB's electronic FONL system or its paper equivalent, TTB F 5100.51, Formula and Process for Domestic and Imported Alcohol Beverages, approved under OMB No. 1513–0122, as an alternate method to file the required formulas. In the future, TTB plans to eliminate this commodity-specific formula information collection in favor of FONL and TTB F 5100.51.

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

TTB believes that this information collection does not have a significant economic impact on a substantial number of small entities. Respondents submit this information collection to TTB only on an as-needed basis, when approval of a new or revised fermented product formula is required. TTB also notes that this collection requires only the information necessary for it to determine if the product in question meets 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 certain non-standard fermented beverages or determine if there is jeopardy to the revenue due to such formulations. In addition, because respondents submit the required information to TTB only on an as-needed basis—when approval of a new or revised fermented product formula is required—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 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.

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 specific assure of confidentiality for this information collection. 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 that section specifically authorizes such action. 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: As provided under the TTB regulations, brewers and importers submit formula approval requests only for certain non-standard fermented alcohol beverage products. Therefore, not every brewer or importer submits such formulas for approval. Based on recent data, TTB estimates that 550 brewers and importers will file an average of 3 fermented beverage product formulas annually, for a total of 1,650 responses. TTB further estimates that a respondent requires 1 hour to complete a response, with 50

minutes related to reporting (composing and submitting the formula approval request) and 10 minutes related to recordkeeping. As such, TTB estimates the total annual burden for this information collection to be 1,650 hours.

Estimated Respondent Labor Costs: TTB estimates the respondent labor costs for this information collection as follows:

NAICS 312100 - Beverage Manufacturing – Food Scientists and Technologists, Fully-loaded Labor Rate/Hour¹ = \$50.11*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
1 hour	\$50.11	3	\$150.33	1,650	\$82,681.50

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

Respondent Record Retention: In general, under 27 CFR 7.31 and 7.42, domestic persons and importers holding an original or duplicate Certificate of Label Approval (COLA) for an alcohol beverage product are required to present a copy of that COLA to any authorized TTB officer or U.S., State, or local government official upon request. As COLAs include the approval of any required formula, respondents must retain record copies of approved formulas submitted to and approved by TTB for as long as that formula and the resulting product's COLA are in use.²

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)?

The development, evaluation, and use of formulas to produce fermented 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. TTB estimates that respondents have up to \$4.00 in mailing and mailing supply costs for each response to this information collection, resulting in estimated annual costs of \$12.00 per respondent (for 3 annual responses) and in \$6,600 total costs for this collection's 1,650 annual responses.

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

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

¹ 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.

² These COLA-related record retention requirements are approved under OMB No. 1513–0020, Application for and Certification/Exemption of Label/Bottle Approval.

Labor Costs for TTB Personnel for OMB No. 1513–0118 (Washington, DC)*					
Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS–12, Step 5, Specialist	\$77.18	40 minutes	\$51.45	1,650	\$84,892.50

* Labor costs rounded to the nearest whole cent.

TTB estimates that it has \$1.00 in overhead costs for each fermented beverage product formula approval request, resulting in \$1,650.00 in such costs. As there is no TTB form associated with this collection, TTB has no printing or distribution costs for this collection. Therefore, the total cost to TTB for this collection is \$86,542.50 (\$84,892.50 in labor costs plus \$1,650.00 in overhead costs).

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

There are no program changes or adjustments to this information collection at this time.

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 information collection does not employ statistical methods.

³ 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 the Washington, DC wage area for a GS–12, Step 5, employee is \$77.18 (\$47.35 in wages plus \$29.83 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf.