

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement for Information Collection Request**

**OMB Control Number 1513-0021**

**Formula and Process for Nonbeverage Products**

**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 (the Secretary) 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 most of the excise taxes paid on distilled spirits used by manufacturers to produce certain nonbeverage products. Specifically, 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 drawback rate at \$1.00 less than the per-gallon rate at which spirits were taxpaid. To ensure that nonbeverage product drawback claims are not fraudulent, section 5112 requires claimants to keep records substantiating the use of the spirits in question, and it requires them to follow the regulations prescribed by the Secretary for such claims. In addition, section 5113 authorizes the Secretary to investigate the correctness of any drawback claim.

Under those IRC authorities, TTB has issued regulations in 27 CFR part 17 concerning nonbeverage product drawback claims. Specific to this information collection, §§ 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, Formula and Process for Nonbeverage Products, for all nonbeverage products for which they will claim drawback. When requested by TTB, § 17.123 requires manufactures to submit additional statements of process and any 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 notice when adopting an approved formula for use at another plant they operate or when adopting a formula used by a preceding 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 nonbeverage product drawback. When TTB has determined whether a product is or is not fit for beverage use and is or is not eligible for drawback under the IRC, TTB enters that information on the form and returns a copy to the manufacturer.

TTB pays nonbeverage product drawback claims 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 drawback approval before beginning mass production of a nonbeverage 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 nonbeverage product 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 if a product made with taxpaid distilled spirits is or is not eligible for nonbeverage product 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 TTB reports its determination to the applicant.

Once a respondent submits a nonbeverage drawback claim, TTB field inspectors and National Revenue Center specialists may investigate the correctness of the claim. By comparing the claimant's records and reports with the information on a nonbeverage product formula application, TTB personnel can ascertain whether the product was 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?*

Electronic submissions: Respondents may electronically submit nonbeverage product formulas or upload letterhead formula adoption notices via the TTB website using the Formulas Online (FONL) system; see <https://www.ttb.gov/formulation>. FONL allows respondents to draft, submit, sign, and track nonbeverage product formula and process applications, and respondents may upload any required supporting documentation as attachments to the related FONL application.

Paper submissions: TTB F 5154.1, Formula and Process for Nonbeverage Product, is available to respondents free on the TTB website as a fillable-printable form; see <https://www.ttb.gov/forms>. 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 purpose of determining eligibility for drawback under the IRC. As far as TTB is able to 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?*

Under the authority of the IRC, the TTB regulations requires all entities, regardless of size, to submit the required nonbeverage formula and process information to TTB so that it can determine if articles made with taxpaid distilled spirits are statutorily eligible for drawback on the spirits used in the article's manufacture. Because this determination is necessary to support such 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 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, 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 articles 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 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 5154.1 and a notice 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 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)	60	8	480	0.9 hour	432 hours
FONL	360	45	16,200	0.6 hour	9,720 hours
<b>Totals</b>	<b>420</b>	<b>(39.7143)</b>	<b>16,680</b>	<b>(0.6086)</b>	<b>10,152 hours</b>

\* 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.

Estimated Respondent Labor Costs: TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:

<p><b>Average Fully-Loaded Wage for Chemists in the Pharmaceutical and Medicine (NAICS 325400) and the Soap, Cleaning Compound, and Toilet Preparation (NAIC 325600) Manufacturing Industries = \$56.49<sup>1</sup></b></p>
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Format	Avg. Time / Response	Labor Cost / Response*	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Paper (TTB F 5154.1)	0.9 hour	\$50.84	8	\$406.72	480	\$24,403.20
FONL	0.6 hour	\$33.89	45	\$1,525.05	16,200	\$549,018.00
<b>TOTALS</b>	<b>(0.6086 hr.)</b>	<b>(\$34.3778)</b>	<b>(39.7143)</b>	<b>(\$1,365.29)</b>	<b>16,680</b>	<b>\$573,421.20</b>

\* Labor costs rounded to the nearest whole cent.

Record retention: Under 27 CFR 17.170, respondents must maintain a copy of the TTB F 5154.1 containing an approved nonbeverage product formula for at least 3 years after the last drawback claim made under that formula.

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)?*

Nonbeverage product manufacturers develop product formulas and production processes during the normal course of business, and, as such, TTB believes that there are no start-up, capital, or ongoing costs to respondents for this information collection.

As for postage and mailing supply costs, TTB estimates those costs as shown below. TTB estimates that 20 percent of responses (3,336 of 16,680) will require the submission of samples.

Item	No. of Respondents	Cost / Response	No. of Responses	Total Postal Costs
Paper Forms (F 5154.1)	60*	\$2.00	480	\$960.00
Samples	420	\$20.00	3,336	\$66,720.00
<b>Totals</b>	<b>420</b>	<b>(\$17.7358)</b>	<b>3,816</b>	<b>\$67,680.00</b>

\* Respondents using paper forms are within the 420 total respondents to this collection.

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

TTB estimates its annual labor costs for this information collection as follows:

<sup>1</sup> The Fully-loaded Labor Rate = Hourly wage rate + benefit costs, which, for the private sector, is calculated as hourly wage x 1.44. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates, the averaged fully-loaded wage for Chemists in the Pharmaceutical and Medicine (NAICS 325400) and the Soap, Cleaning Compound, and Toilet Preparation (NAIC 325600) Manufacturing Industries, is \$56.49 (\$39.23 for hourly wages plus \$17.26 for benefit costs); see [https://www.bls.gov/oes/current/naics4\\_3250A2.htm](https://www.bls.gov/oes/current/naics4_3250A2.htm) and [https://www.bls.gov/oes/current/naics4\\_325400.htm](https://www.bls.gov/oes/current/naics4_325400.htm).

Labor Costs for TTB Laboratory Personnel (Washington, DC Pay Area) for OMB No. 1513-0021*					
Position	Fully-loaded Labor Rate/Hour <sup>2</sup>	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-9, Step 5 Legal Instrument Examiner	\$53.22	0.2 hour	\$10.64	16,680	\$177,475.20
TTB Chemist (Avg.) <sup>3</sup>	\$78.32	0.6 hour	\$46.99		\$783,793.20
<b>TOTALS</b>	(\$72.0375)	0.8 hour	\$57.63	16,680	\$961,268.40

\* Labor costs rounded to the nearest whole cent unless otherwise noted.

In addition, TTB estimates an average of \$5.00 in overhead and laboratory supply costs for each non-beverage formula and process submission it reviews, for a total of \$83,400.00 in such costs. However, TTB's printing and distribution costs for this collection have decreased to \$0.00 in due to the availability of its forms to the public on the TTB website's forms page at <https://www.ttb.gov/forms>.

As such, total cost to the Federal Government for this information collection is **\$1,044,668.40**.

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

There are no program changes associated with this collection at this time. As for adjustments, due to changes in agency estimates, TTB is increasing the number of annual respondents, average number of responses per respondent, total responses, and total burden hours associated with this information collection. In addition, due to changes in agency estimates, TTB is increasing the per-respondent burden for the paper form, TTB F 5154.1, from 0.5 hour to 0.9 hour, and the per-respondent burden for the FONL equivalent from 0.5 hour to 0.6 hour.

<sup>2</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) Federal hourly wage data, the fully-loaded labor rates for the Washington, DC wage area are: (1) GS-9, step 5 = \$53.22; (2) GS-11, step 5 = \$64.40; (3) GS-12, step 5 = \$77.18; (4) GS-13, step 5 = \$91.79; and (5) GS-14, step 5 = \$108.46. 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).

<sup>3</sup> The TTB Nonbeverage Laboratory employs 1 GS-9, 1 GS-11, 4 GS-12, 1 GS-13, and 1 GS-14 chemists. The average fully-loaded wage rate for those employees is \$78.32.

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 of this information collection on its related form, TTB F 5154.1.

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.