

**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**

**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 wine, distilled spirits, and malt beverages. That section authorizes such regulations in order to prohibit consumer deception and the use of misleading statements in the marketing of alcohol beverage products, and to ensure that consumers receive adequate information as to the identity and quality of such products. To carry out those consumer protection goals, section 205(e) prohibits the introduction of imported or domestic alcohol beverages into interstate or foreign commerce unless the importer or bottler possess a “certificate of label approval” for the product issued in the form and manner that the Secretary prescribes by regulation. Section 205(e) also provides an exemption from that label approval requirement for products that domestic bottlers will not introduce 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 TTB to administer and enforce the FAA Act through Treasury Order 120–01.

Under its FAA Act and delegated authorities, TTB has issued regulations implementing the Act's alcohol beverage labeling provisions, which are found in 27 CFR part 4 for wine, part 5 for distilled spirits, and part 7 for malt beverages. Specific to this collection, the regulations at §§ 4.40(a), 5.51(a), and 7.31(a) require importers of wine, distilled spirits, and malt beverages in consumer containers to obtain a “certificate of label approval” (COLA) before the release of such products from customs custody for domestic consumption. Those regulations also require importers 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. For domestic wine, distilled spirits, and malt beverages, the TTB regulations at §§ 4.50(a), 5.55(a), and 7.41 provide that no bottler may bottle, pack, or remove such products they possess a COLA for the product. However, under §§ 4.50(b) and 5.55(b), a domestic bottler who shows upon application that a wine or distilled spirits product will not be introduced into interstate or foreign commerce is exempt from the requirement to have a COLA for the product (TTB does not require label approval exemption applications for malt beverages). Under §§ 5.46(d), 19.513, 26.314, and 27.204,

distilled spirits bottlers and importers also must apply for TTB approval of liquor bottles of distinctive shape or design. In addition, the regulations noted above are cross-referenced at 27 CFR 19.516, 24.258, 25.141(c), 25.142(e), 26.39, 27.58, 27.59, and 27.60.

Under the regulations noted above, respondents use form TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval, to submit applications to request any of the following: (1) COLAs for imported and domestic wines, distilled spirits, and malt beverages, (2) exemptions from label approval for wines and distilled spirits that will not be introduced into interstate or foreign commerce, 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, certificate of exemption from label approval, or a certificate of approval for a distinctive liquor bottle and its label.

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?*

TTB uses the collected information to meet its statutory obligations under the FAA Act to review and approve alcohol beverage labels in order to prevent consumer deception and the use of misleading information in the marketing of alcohol beverages, 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. As required by the TTB regulations, respondents submit applications for COLAs, label approval exemptions, and distinctive liquor bottle approvals using TTB F 5100.31. TTB's Alcohol Labeling and Formulation Division (ALFD) examines each application for compliance with the relevant regulators. If approved, TTB certifies the application and returns a copy to the applicant, which, as appropriate, serves as the product's COLA, certificate of exemption from label approval, or, for distinctive liquors bottles, a certificate of approval for the bottle and its label.

*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?*

Importers and domestic bottlers may electronically submit COLA, label approval exemption, and distinctive liquor bottle approval applications via TTB's web-based COLAs Online system; see <https://www.ttb.gov/labeling/colas>. Currently, TTB receives 99.5 percent of all such applications via its COLAs Online system. The use of this system speeds application, processing, review, and approval return times for respondents and TTB. For non-electronic respondents, TTB F 5100.31 is available as a fillable/printable form on the TTB website; see <https://www.ttb.gov/forms>. Once received, TTB enters paper applications into the COLAs Online database for identification and application tracking purposes.

*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, label approval exemptions, and distinctive liquor bottle approvals collect information that is pertinent to each respondent and specific to a particular alcohol beverage product for which the respondent seeks approval. Under section 205(e) of the FAA Act, respondents must obtain such approvals before the alcohol beverage product in question enters domestic or foreign commerce. As far as TTB can determine, the collected 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?*

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 importers and domestic bottlers of such products, regardless of size, to provide the collected information. As such, TTB cannot waive this information collection simply because the respondent's business is small. However, TTB notes that respondents provide the collected information only once for each alcohol beverage label or distinctive liquor bottle. In addition, to reduce respondent burden, TTB allows respondents to make certain revisions to previously approved labels without TTB approval. TTB lists these "allowable revisions" on TTB F 5100.31 and the COLAs Online website.

*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 could not meet the requirements and consumer protection goals of the FAA Act regarding the labeling of alcohol beverages introduced into interstate or foreign commerce. In addition, TTB notes that respondents provide the collected information only once for each such alcohol beverage product label or distinctive liquor bottle, and, 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?*

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 November 16, 2021, at 86 FR 63448. 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?*

Under the TTB label proceedings regulations at 27 CFR 13.61(a), information submitted on pending and denied applications for COLAs, label approval exemptions, and distinctive liquor bottle approvals is treated as proprietary information, which is protected from disclosure by Federal law at 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 viewing in its public reading room and on its website via the Public COLA Registry (see <https://www.ttb.gov/labeling/cola-public-registry>).

In addition to the regulatory notice in § 13.61(b), TTB includes a Disclosure Statement on TTB F 5100.31 and in COLAs Online informing respondents that TTB makes approved applications available for public inspection. The Disclosure Statement also states that TTB may disclose the provided information to other Federal, State, and local law enforcement and regulatory agencies to verify the application's information and to aid in the performance of their duties. In addition, the statement notes that TTB may disclose the information on an application to the Justice Department if it appears that false information contributed 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. TTB has conducted a Privacy Impact Assessment (PIA) for information collected under this request as part of the Certificate of Label Approval Online (COLAs Online) system. TTB's PIAs are available on the TTB website at <https://www.ttb.gov/foia/privacy-impact-assessments>. However, this collection is not included in TTB's Privacy Act System of Records Notice (SORN) because TTB uses the provided information to identify businesses and business contacts, and, in the Disclosure Statement included on TTB F 5100.31 and COLAs Online, 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?*

**Estimated Respondent Burden:** Based on recent data, TTB estimates that 12,500 respondents will annually file applications for COLAs, label approval exemptions, or distinctive liquor bottle approvals, and that each respondent files an average of 16.4 applications, resulting in 205,000 total responses to this information collection. TTB further estimates that respondents require 31 minutes to complete a response, whether made using TTB F 5100.31 or COLAs Online, resulting in an estimated 105,917 burden hours for this information collection.

(12,500 respondents x 16.4 responses per respondent = 205,000 responses x 31 minutes per response = 6,355,000 minutes ÷ 60 minutes per hour = 105,917 total burden hours.)

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

<b>Respondent Labor Costs for OMB No. 1513-0020, Application for and Certification/Exemption of Label/Bottle Approval</b> <b>Based on NAICS 312000 – Beverage Manufacturing – Office &amp; Administrative Support Occupations – Fully-loaded Labor Rate of \$30.50 Hour<sup>1*</sup></b>					
Time per Response	Labor Cost per Response	Average. Responses per Respondent	Labor Costs per Respondent	Total Responses	Total Labor Costs
31 minutes	\$15.76	16.4	\$258.46	205,000	\$3,230,750.00

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

Recordkeeping: By operation of the relevant regulations, alcohol beverage importers and bottlers must possess an approved COLA, certificate of label approval exemption, or distinctive bottle approval for as long as they label the product 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 them available to duly authorized U.S. government officials, and, in the case of malt beverage-related certificates, 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 bottlers is a usual and customary practice undertaken during the normal course of business, regardless of any regulatory requirement to do so. As such, the 99.5 percent respondents who submit the required label information via COLAs Online do not have any non-labor costs for this collection. For the 0.5 percent of respondents who submit paper copies of TTB F 5100.31, TTB estimates that each such response costs \$1.00 in mailing supplies and postage. Therefore, for the estimated 625 respondents submitting the estimated average of 16.4 responses to this collection by mail, each has \$16.40 in annual mailing costs, which totals \$10,250.00 in mailing supply and postage costs for this information collection.

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

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

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<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 for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations (43-0000) is \$30.50 (\$21.18 for hourly wages plus \$9.32 for benefit costs); see [https://www.bls.gov/oes/current/naics4\\_312100.htm](https://www.bls.gov/oes/current/naics4_312100.htm).

<b>Labor Costs for OMB No. 1513-0020 (for Alcohol Labeling and Formulation Division Employees at TTB's Headquarters in Washington, DC)*</b>				
Average Fully-loaded Labor Rate/Hour <sup>2</sup>	Processing Time per Response	Costs per Response	Total Responses	Total Labor Costs
\$84.05	0.1667 hour (10 minutes)	\$14.01	205,000	\$2,872,050
<b>Other Costs for OMB No. 1513-0020*</b>				
Imaging and Support Services		--	205,000	\$360,000
Office Supplies		--	205,000	\$500
<b>TOTALS</b>		<b>(\$15.7685)</b>	<b>205,000</b>	<b>\$3,232,550</b>

\* Fully-loaded labor rate and costs per response rounded to the nearest whole cent unless otherwise noted.

NOTE: TTB no longer has any printing and distribution costs for this collection because the large majority of respondents submit the required information electronically via the COLAs Online system, while the remaining respondents obtain free, fillable-printable copies of TTB F 5100.31 via the TTB website (see <https://www.ttb.gov/forms>).

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

Program Changes: TTB is revising this information collection to provide for four new “allowable revisions” to previously approved alcohol beverage labels, and TTB is expanding two existing allowable revisions that it already describes on TTB F 5100.31 and COLAs Online. “Allowable revisions” are revisions that bottler and importers can make to a previously approved label without requiring the submission of a new COLA application. TTB describes these changes in TTB Industry Circular 2021-1, Expansion of Allowable Revisions to Approved Alcohol Beverage Labels, which TTB has posted on its website at <https://www.ttb.gov/industry-circulars>. The revised allowable revisions are:

- In addition to changing colors, background, type font, and size on a previously approved label, industry members may now divide a single approved label into multiple labels, and conversely, may combine separate labels approved under a single COLA into a single label, provided the label or labels comply with placement requirements for mandatory information and all other relevant requirements. (See Item 3 in allowable revisions list.)

<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 for the Washington, DC wage area, the average fully-loaded labor rate for the 33 Alcohol Labeling and Formulation Division (ALFD) staff members involved in processing and reviewing this information collection is \$84.05. Those ALFD personnel include 2 GS-9, 6 GS-11, 15 GS-12, 6 GS-13, 1 GS-14, and 3 GS-15 employees, each at the Step 5 level). See the OPM website at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf).

- Industry members may add or delete two new claims (“Environmentally Conscious” and “Eco-Conscious”), in addition to the nine sustainable farming, environmental, and eco-friendly claims previously authorized as allowable revisions. (See Item 36 in allowable revisions list.)

The new allowable revisions are:

- Industry members may add, change, or delete opening instructions for box wine containers and tapping instructions for wine and malt beverages in kegs. In the case of box wine containers, the revisions may include graphics showing step-by-step instructions. (See new Items 38 and 39 in the allowable revisions list.)
- Industry members may add, change, or delete the name or name and address of the container manufacturer. (See new Item 40 in the allowable revisions list.)
- Industry members may change the stated numerical representation of the International Bitterness Units or Original Gravity on malt beverage labels. (See new Item 41 in the allowable revisions list.)

Adjustments: The program changes described above will result in a small reduction in the number of COLA application submissions submitted to TTB. However, due to changes in agency estimates, TTB is increasing the overall estimated annual number of respondents, responses, and burden hours for this information collection. The estimated per-response burden remains the same, while the average number of responses per respondent decreases slightly. These adjustments are:

<b>Category</b>	<b>11/2018 Estimates</b>	<b>01/2022 Estimates</b>
Respondents	11,240	12,500
Average Responses/Respondent	16.77	16.4
Total Responses	188,495	205,000
Time per Response	31 minutes	31 minutes
Total Burden Hours	97,389	105,917

Collection Instrument Changes: On form TTB F 5100.31, in addition to the changes to the allowable revisions list noted above, TTB is revising the Paperwork Reduction Act Notice for this information collection as follows: (1) the title of the person to whom comments regarding the information collection and its burden are directed is changed from “Reports Management Officer,” to “Paperwork Reduction Act Officer;” and (2) TTB 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.*

Bottlers and importers disclose alcohol beverage labels and distinctive liquor bottles to the public as a usual and customary business practice. While TTB does not publically disclose pending or rejected applications, it does post approved COLA, label approval exemption, and distinctive liquor bottle applications on its website in the Public COLA Registry (see

<https://www.ttb.gov/labeling/cola-public-registry>). TTB gives public notice of this policy in its regulations at 27 CFR 13.61, and in a Disclosure Statement placed on TTB F 5100.31 and 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 public, TTB requests approval not to 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 that date, TTB will not have to update the paper form or on the COLAs Online website pages each time OMB reapproves this collection. This will avoid confusion among respondents when the collection's approval date has passed but its approval continues on a month-to-month basis while the collection 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 information collection does not employ statistical methods.