

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0010

Formula and Process for Wine

Changes Since Last Approval

Changes made to the Supporting Statement since this collection's last approval:

- Throughout the Supporting Statement, TTB is making minor editorial and grammatical changes for clarity.
- In Question 12, TTB is providing an estimate of respondent labor costs for this collection, and is stating its recordkeeping burden.
- In Question 13, TTB is estimating the non-labor costs to respondents for this collection.
- In Question 14, TTB is providing a more detailed estimate of its costs for this collection.

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 (IRC, 26 U.S.C.). TTB administers those IRC provisions 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 Order 120-01.

In addition to imposing Federal excise taxes on wines produced or imported into the United States, the IRC places formula requirements on certain wines and authorizes the Secretary to issue regulations regarding the production of wines. This includes 26 U.S.C. 5386, which requires special natural wine to be made pursuant to an approved formula, and 26 U.S.C. 5361, 5362(d), 5387, and 5388(b), which authorize the Secretary to issue regulations governing the production of wines other than natural wines.

Under those authorities, the TTB regulations in 27 CFR Part 24, Wine, and 27 CFR Part 26, Liquors and Articles from Puerto Rico and the Virgin Islands, require proprietors intending to

produce special natural wine, agricultural wine, other than standard wine, or nonbeverage wine to submit, and obtain TTB's prior approval of, the formula by which the product is to be made. Specifically, these regulations are found in 27 CFR at:

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

Those regulations allow proprietors to file such formula approval requests on form TTB F 5120.29, Formula and Process for Wine, which identifies the proprietor, the type of wine or wine product to be made, and the ingredients and processes by which the wine or wine product is to be made.

This information collection is aligned with —

- Line of Business/Sub-function: General government / Taxation management.
- IT Investment: Formulas Online.

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

Respondents may use TTB F 5120.29 to file formula approval requests for special natural wine, agricultural wine, other than standard wine, or nonbeverage wine. TTB uses the collected information to protect the revenue and to protect the public from misidentified, mislabeled, or unsafe wines and wine products. To do so, TTB personnel review the collected information to determine if the applicant meets the formula requirements for the described wine or wine product, including:

- If the proposed ingredients are safe for human consumption (that is, all ingredients are approved by the U.S. Food and Drug Administration or are Generally Recognized as Safe for food and beverage use);
- If approved production techniques are used;
- The proper class and type of the alcohol beverage and the appropriate label designation of the product; and
- In the case of nonbeverage wine (withdrawn free of tax under the IRC at 26 U.S.C. 5362(d)), that the wine 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?*

Currently, respondents may scan and upload TTB F 5120.29 electronically via Formulas Online, TTB's online formula submissions portal, at <https://www.ttonline.gov/ttonline/>. TTB F 5120.29 is also available as a fillable-printable form on the TTB website at <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 requirement contains information pertinent to each respondent and applicable to the specific issue of formula and process approvals for wine and wine products. Most respondents now use TTB's electronic formula submissions portal, Formulas Online, or its paper equivalent, TTB F 5100.51, to submit such applications to TTB. However, TTB also allows respondents to file the required wine formula and process information using the legacy form TTB F 5120.29. As far as TTB can determine, similar information is not available elsewhere.

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

The wine formula and process information required under this collection request protects the revenue and protects the public from misidentified, mislabeled, or unsafe wines and wine products. As such, TTB cannot waive this collection's requirements due to the size of the respondent's business. However, TTB believes that this information collection does not have a significant impact on a substantial number of small businesses or other 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?*

If TTB did not collect the information required under this collection request, it could not protect the revenue and protect the public from potentially misidentified, mislabeled, or unsafe wines and wine products. Respondents complete this collection only when submitting a new or revised product formula or process, 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? (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 May 3, 2022, at 87 FR 26261. 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 specific assurance of confidentiality for this 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 the section specifically authorizes such action. TTB maintains the required forms and reports in secure file rooms with controlled access and password protected computer systems.

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. Also, this information request 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 burden of this collection of information?

Estimated Respondent Burden: Based on recent data, TTB estimates that 30 respondents will submit 5 responses annually using TTB F 5120.29, for a total of 150 responses. TTB also estimates that respondents require 2 hours to complete each response, resulting in a total estimated annual burden of 300 hours.

Estimated Respondent Labor Costs: TTB estimates respondent “fully-loaded” labor costs for this information collection as shown below.¹

NAICS 312100 - Beverage Manufacturing – Food Scientists and Technologists					
Fully-loaded Labor Rate/Hour= \$51.49*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
2 hours	\$102.98	5	\$514.90	150	\$15,447.00

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

Respondent Record Retention: Approved certificates of label approval (COLAs) must 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 must present a copy of that COLA, including any approved formula, to an authorized

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 \$51.49 (\$35.76 mean hourly wage plus \$15.73 in benefit costs). See the BLS website at https://www.bls.gov/oes/current/naics4_312100.htm.

TTB officer upon request 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 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 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 15 of 30 total respondents who submit wine formula approval requests using paper form TTB F 5120.29 have up to \$10.00 in mailing supply and postage costs per response. Given an average of 5 responses per respondent, respondents submitting wine formulas by mail have \$50.00 in such costs, resulting in a total of \$750.00 in such costs annually for this collection.

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

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

Fully-Loaded Labor Costs for TTB Personnel (Washington, DC Pay Area) for OMB No. 1513-0010*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Responses Reviewed	Total TTB Labor Costs
GS-9, Step 5 Specialist	\$54.83	0.5 hour	\$27.42	75	\$2,056.50
GS-12, Step 5, Specialist	\$79.51	0.5 hour	\$39.76	75	\$2,982.00
GS-13, Step 5, Sr. Specialist**	\$94.56	1.0 hour	\$94.56	15	\$1,418.40
Totals	(\$71.743)	(0.6 hour)	(\$43.046)	150	\$6,456.90

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

** Due to complexities, approximately 10 percent of responses are further reviewed by a senior specialist.

Other Costs: As for other costs, TTB estimates it has \$5.00 in imaging and support service costs for each response to this information collection, for a total of \$750.00 in such costs for this collection. As TTB returns a copy of approved formula forms to the applicant, TTB also estimates that it has \$2.00 per response in mailing supply and postage costs, for a total of \$300.00 in such costs for this collection. However, TTB's printing and distribution costs for

² 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 = \$54.83; (2) GS-12, Step 5, = \$79.51; and (3) GS-13, Step 5 = \$94.56. See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf.

this collection's form have decreased to \$0.00 due to the availability of TTB F 5120.29 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 **\$7,506.90**.

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

There are no program changes or adjustments associated with 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?

TTB will display the expiration date of OMB approval for this information collection on its related form, TTB F 5120.29.

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 collection does not employ statistical methods.