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

Changes Since Last Approval

In this Supporting Statement:

- TTB is revising Question 1 for clarity and conciseness and is revising the list of 27 CFR parts 5 and 7 regulations associated with this information collection shown in that question due to the publication of a final rule in 2022 revising those parts; see T.D. TTB–176, Modernization of the Labeling and Advertising Regulations for Distilled Spirits and Malt Beverages, published in the Federal Register of February 9, 2022, at 87 FR 7526.
- TTB is also updating the information provided in Questions 8, 12, 13, 14, and 15 to reflect, respectively, the latest 60-day notice publication information, respondent burden and labor costs, respondent non-labor costs, costs to the Federal Government, and the adjustments associated with this information 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 Federal Alcohol Administration (FAA) Act, at 27 U.S.C. 205(e), requires that distilled spirits, wines, and malt beverages sold or introduced into interstate or foreign commerce be packaged, marked, and labeled in conformity with regulations issued by the Secretary of the Treasury (the Secretary) in order to (1) prevent consumer deception and the use of misleading or false statements, and (2) provide the consumer with "adequate information" as to the identity and quality of the product. Also under that section, prior to an alcohol beverage's introduction into interstate or foreign commerce, the bottler or importer of the product must apply for and receive a "certificate of label approval" for the product's label in the manner and form the Secretary prescribes by regulation. In addition, section 205(e) authorizes domestic bottlers or producers to apply for an exemption from label approval for alcohol beverages not sold or entered 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 FAA Act's alcohol beverage labeling provisions in 27 CFR part 4 for wine, part 5 for distilled spirits, and part 7 for malt beverages. Those regulations require domestic bottlers or importers of wines, distilled spirits, and malt beverages to obtain a certificate of label approval (COLA) before such products are introduced into domestic or foreign commerce, including products with personalized labels and bottles of distinctive design or shape containing distilled spirits. The regulations also require any person holding a COLA to present the COLA to an authorized TTB officer, customs officer, or other U.S. Government official upon request. In addition, the regulations require domestic bottlers to obtain a COLA exemption for wine or distilled spirits that will not be introduced into interstate or foreign commerce.[1]

The TTB regulatory sections included under this information collection approval are:

§ 4.40	§ 4.50	§ 4.51	§ 4.54	§ 5.21 – § 5.25
§ 5.27	§ 5.29	§ 5.205	§ 7.21 – § 7.25	§ 7.27
§ 7.29	§ 19.513	19.516	§ 26.314 and	§ 27.204.[2] & [3]

Under the regulations noted above, respondents use form TTB F 5100.31, Application for and Certification/Exemption of Label/Bottle Approval, or its electronic equivalent, COLAs Online, to submit applications requesting approval of: (1) COLAs for domestic or imported wines, distilled spirits, or malt beverage products that will be introduced into domestic or foreign commerce; (2) exemptions from label approval for domestic wines and distilled spirits that will not be introduced into interstate or foreign commerce; and (3) distinctive liquor bottles containing distilled spirits. 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 certificate of approval of a distinctive liquor bottle and its label.

This information collection is aligned with the following Line of Business/Sub-function: *Law Enforcement/Substance Control*.

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

TTB uses the collected information to meet the FAA Act's statutory requirement regarding the review and approval of 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. TTB's Alcohol Labeling and Formulation Division (ALFD) examines each COLA, COLA exemption, and distinctive liquor bottle application for compliance with the relevant labeling regulations. If approved, TTB certifies the application and returns a copy to the applicant, which serves as the product's COLA or COLA exemption, or, for distinctive liquors bottles, a certificate of approval for the bottle and its label.

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[1] TTB does not issue exemption certificates for alcohol beverages imported in bottles, and the TTB regulations in 27 CFR part 7 do not require COLA exemptions for malt beverages not introduced into interstate or foreign commerce.

[2] Various COLA-related regulations in 27 CFR parts 4, 5, and 7 are cross-referenced in 27 CFR 19.363, 19.437, 19.516, 19.517, 24.257, 24.258, 24.308, 25.58, 25.141(c), 25.142(e), 26.39, 26.200(d), 26.202(c), 27.48, 27.55, 27.58 – 27.60, and 27.140(d).

[3] TTB notes that its regulations requiring 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 are approved under OMB No. 1513–0064, Importer's Records and Reports (TTB REC 5170/1).

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?

Respondents may electronically submit applications for COLAs, label approval exemptions, and distinctive liquor bottle approvals via TTB's web-based COLAs Online system; see *https://www.ttb.gov/regulated-commodities/labeling/colas*. The use of COLAs Online speeds application processing, review, and approval times for respondents and TTB, and TTB receives 99.5 percent of all such applications via that system. For non-electronic respondents, TTB F 5100.31 is available as a fillable/printable form at no cost on the TTB website; see *https://www.ttb.gov/public-information/forms*. Once received, TTB enters paper applications into the COLAs Online database for identification and 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 unique to each respondent and specific to the particular alcohol beverage product in question. Under the FAA Act at 27 U.S.C. 205(e), respondents must obtain the relevant approval before an alcohol beverage product enters foreign, interstate, or intrastate 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 beverage products introduced into domestic or foreign commerce, TTB requires domestic bottlers and all importers 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 product they label or distinctive liquor bottle they use. In addition, to reduce respondent burden, TTB allows respondents to make certain revisions to previously approved labels without TTB review and approval; the list of such "allowable revisions" is shown 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 statutory provisions and consumer protection goals of the FAA Act regarding the labeling of alcohol beverages. In addition, TTB notes that respondents provide the collected information only once for each alcohol beverage product label or distinctive liquor bottle they plan to use, 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 29, 2024, at 89 FR 94871. 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 Department of Justice 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 and Civil Liberties Impact Assessment (PCLIA) for the information collected under this request as part of the Certificate of Label Approval Online (COLAs Online) system. However, that system 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 the Disclosure Statement included on TTB F 5100.31 and COLAs Online gives notice that TTB will make approved applications available for public inspection. See TTB's PIAs and SORN on the TTB website at *https://www.ttb.gov/public-information/foia*.

12. What is the estimated hour burden of this collection of information?

Estimated Respondent Burden: Based on recent data, TTB estimates that 12,750 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 209,100 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 108,035 burden hours for this information collection.[4]

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

Respondent Labor Costs for OMB No. 1513–0020, Based on NAICS 312000 – Beverage Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate of $34.56 Hour[5]					
Time per Response	Labor Cost per Response	Average. Responses per Respondent	Labor Costs per Respondent	Total Respondents	Total Labor Costs
31 minutes	$17.856	16.4	$292.8384	12,750	$3,733,689.60

Recordkeeping: By operation of the relevant regulations, alcohol beverage importers and domestic bottlers must possess an approved COLA, certificate of label approval exemption, or certificate of distinctive liquor bottle approval for as long as they label the product or use the distinctive bottle under that approval. In addition, under 27 CFR 4.40(a), 4.51, 5.27, and 7.27, persons holding originals or duplicates of approved certificates must make them available to duly authorized U.S. government officials upon request.

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 domestic 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 electronically submit the required information via COLAs Online do not have any non-labor costs for this collection. For the 0.5 percent of respondents who submit paper applications on TTB F 5100.31, the Bureau estimates that each such response costs $1.00 in mailing supplies and postage. Therefore, the estimated 638 respondents each submitting the average of

[4] 12,750 respondents x 16.4 responses per respondent = 209,100 responses x 31 minutes per response = 6,482,100 minutes ÷ 60 minutes per hour = 108,035 total burden hours.)

[5] The private sector fully-loaded labor rate = hourly wage x 1.44 to account for benefit costs. 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 estimated fully-loaded labor rate per hour for Office and Administrative Support Occupations (43–0000) is $34.56, based on a mean hourly wage of $24.00; see *https://www.bls.gov/oes/current/naics4_312100.htm*.

16.4 responses to this collection by mail, have $16.40 in annual mailing costs each, which totals $10,463.20 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 shown in the table below:

TTB Labor Costs for OMB No. 1513–0020*				
Average Fully-loaded Labor Rate/Hour[6]	Processing Time per Response	Costs per Response	Total Responses	Total Costs
$89.60	10 minutes	$14.93	209,100	$3,121,863.00
Other Costs for OMB No. 1513–0020				
Imaging and Support Services		$1.80	209,100	$376,380.00
Office Supplies		--	--	$1,000.00
TOTALS		**($16.734782)**	**209,100**	**$3,499,243.00**

* Labor rates and costs are 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 fillable-printable copies of TTB F 5100.31 at no cost via the TTB website; see *https://www.ttb.gov/public-information/forms*.

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

There is no program change associated with this information collection at this time, and TTB is submitting it for extension purposes only. As for TTB adjustments, due to changes in agency estimates, TTB is increasing the estimated annual burden for this information collection. TTB estimates that the number of respondents has increased from 12,500 to 12,750, the number of responses from 205,000 to 209,100, and the burden hours from 105,917 to 108,035. These increases result from an increase in the number of COLA submissions made to TTB. The estimated average number of annual responses per respondent and the average per-response burden remains the same as previously reported, 16.4 responses per respondent and 31 minutes, respectively.

<u>TTB F 5100.31:</u> TTB has made minor clarifications to the text of the Allowable Revisions section of this form (see part V TTB F 5100.31). None of the clarifications affect the burden associated with this information collection.

[6] 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 28 Alcohol Labeling and Formulation Division (ALFD) staff members involved in processing and reviewing this information collection is $89.60. Those ALFD personnel include 2 GS–9, 6 GS–11, 14 GS–12, 4 GS–13, and 2 GS–14 employees, each at an average of the Step 5 level. See the OPM website at *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/DCB_h.pdf*.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

Domestic bottlers and importers display alcohol beverage labels and distinctive liquor bottles to the public for the purpose of retail sale as a usual and customary business practice. While TTB does not publicly disclose pending or rejected COLA-related applications, it does disclose approved COLA, label approval exemption, and distinctive liquor bottle applications on its website in the Public COLA Registry (see h*ttps://www.ttb.gov/labeling/cola-public-registry*). TTB gives public notice of this disclosure policy in its regulations at 27 CFR 13.61 and in the Disclosure Statement shown 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 form 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 the COLAs Online website pages each time OMB reapproves this collection. This will avoid confusion among respondents when this information collection’s approval date has passed but its approval continues on a month-to-month basis while it 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. <u>Collections of Information Employing Statistical Methods</u>.

This information collection does not employ statistical methods.