

### Proprietary Information

Because information received in response to this RFI may be used to structure future programs and/or otherwise be made available to the public, respondents are strongly advised to NOT include any information in their responses that might be considered business sensitive, proprietary, or otherwise confidential. However, respondents may choose to include such information in their submissions if they believe it will significantly assist DOT in the design of the Challenge.

Responses containing confidential, proprietary, or privileged information must be conspicuously marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act, 5 U.S.C. 552.

If a response contains trade secrets or confidential commercial or financial information, the respondent must include a cover sheet identifying the specific pages containing that information. The cover sheet must also provide evidence that the respondent actually or customarily treats the information as private.

In addition, the respondent must (1) mark the header and footer of every page that contains trade secrets or confidential commercial or financial information with "Contains Confidential Information Exempt from Public Disclosure" and (2) identify every line and paragraph containing such information with double brackets or highlighting.

### Evaluation and Administration by Federal and Non-Federal Personnel

Federal employees are subject to criminal prosecution for the unauthorized disclosure of appropriately and properly marked confidential information under 18 U.S.C. 1905. The government may seek the advice of qualified non-federal personnel and use non-federal personnel to conduct routine, nondiscretionary administrative activities. Submissions may be reviewed by support contractors and private consultants. By submitting your response, the respondent consent to DOT providing it to non-federal parties. Non-federal parties will be obliged to maintain the confidentiality of any submissions prior to being given access to those submissions.

### Request for Information

#### Category 1: Challenge Topic and Design

1. The Challenge could address elements of independently using a

passenger vehicle, as described above. Are crucial elements missing? If so, please describe the missing element(s) and discuss how they create challenges for independent travel.

2. Is there benefit to including an option for the development of a full concept design for inclusive vehicles (*i.e.*, in reimagining the vehicle design)? If so, please explain why and describe what requirements should be considered as part of this concept proposal.

3. How can proposals account for uncertainty in the development path of automated vehicles while still demonstrating novel and realistic concepts for inclusive design?

4. Stakeholder engagement is an important aspect of the Inclusive Design Challenge. In what ways should DOT continue stakeholder engagement throughout the project to support teams in receiving valuable feedback on their designs (*e.g.*, expert panels, public webinars that solicit feedback etc.)?

5. Are Stage I awards sufficient for enabling the development of a prototype for Stage II?

6. Do the proposed Challenge background, purpose, and challenge features sections above provide sufficient information to inform proposals? If not, what additional information would be helpful?

#### Category 2: Evaluation

1. How can DOT evaluate proposals on the basis of:

- a. Inclusiveness?
- b. Production feasibility?
- c. Expected user experience?

2. What evaluation criteria are most important when considering how proposals can best enable access to AVs for persons with disabilities:

- a. Description of how the proposed solution contributes to independent travel
- b. Demonstration of a realistic understanding of users and their unique needs
- c. Demonstration of the engineering needs and explaining how the team arrived at that determination of need
- d. Determination of the potential cost and manufacturability
- e. Thorough description of the user experience when the technology is implemented
- f. Consideration of the human-machine interface needs both inside and outside of the vehicle
- g. Consideration of a range of needs and limitations, including users in a range of geographic contexts, income brackets, and with and

without access to a smartphone or bank account

h. Other criteria

3. How would evaluation criteria be different if there were two types of proposals being considered (such as components and full design)?

### Footnotes

1. Dynamic Driving Task and Operational Design Domain are both defined by SAE International in standard J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles ([https://www.sae.org/standards/content/j3016\\_201806/](https://www.sae.org/standards/content/j3016_201806/))
2. See SAE International standard J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles for definitions of driving automation levels ([https://www.sae.org/standards/content/j3016\\_201806/](https://www.sae.org/standards/content/j3016_201806/))

### Finch Fulton,

Deputy Assistant Secretary for Transportation Policy.

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BILLING CODE 4910-9X-P

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB-2020-0001]

### Proposed Information Collections; Comment Request (No. 77)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

**DATES:** We must receive your written comments on or before March 9, 2020.

**ADDRESSES:** As described below, you may send comments on the information collections described in this document using the "Regulations.gov" online comment form for this document, or you may send written comments via U.S. mail or hand delivery. We no longer accept public comments via email or fax.

• **Internet:** To submit comments online, use the comment form for this document posted within Docket No. TTB-2019-0001 on the "Regulations.gov" e-rulemaking website at <https://www.regulations.gov>;

- *U.S. Mail*: Send comments to the Paperwork Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.

- *Hand Delivery/Courier*: Delivery comments to the Paper Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection described in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB control number (if any) in your comment.

You may view copies of this document, the information collections described in it and any associated instructions, and all comments received in response to this document within Docket No. TTB-2019-0001 at <https://www.regulations.gov>. A link to that docket is posted on the TTB website at <https://www.ttb.gov/forms/comment-on-form.shtml>. You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

**FOR FURTHER INFORMATION CONTACT:**

Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; 202-453-1039, ext. 135; or [informationcollections@ttb.gov](mailto:informationcollections@ttb.gov) (please do not submit comments to this email address).

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections described below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether an information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information has a valid OMB control number.

**Information Collections Open for Comment**

Currently, we are seeking comments on the following forms, letterhead applications or notices, recordkeeping requirements, questionnaires, or surveys:

*OMB Control No. 1513-0041*

*Title*: Distilled Spirits Plants—Records and Monthly Reports of Processing Operations.

*TTB Form Number*: TTB F 5110.28.

*TTB Recordkeeping Number*: TTB REC 5110/03.

*Abstract*: In general, the Internal Revenue Code of 1986, as amended (IRC), at 26 U.S.C. 5001, imposes a Federal excise tax on distilled spirits produced or imported into the United States, and imposes related recordkeeping and reporting requirements. The IRC at 26 U.S.C. 5207 requires that distilled spirits plant (DSP) proprietors keep records and submit reports regarding their production, storage, denaturation, and processing operations in such form and manner as the Secretary of the Treasury (Secretary) by regulation prescribes. Under that IRC authority, the TTB regulations in 27 CFR part 19 require DSP proprietors to keep records regarding their processing operations, as well as any wholesale liquor dealer or taxpaid storeroom operations they conduct. The part 19 regulations also require DSP proprietors to submit monthly reports of those processing operations (based on the required records) using form TTB F 5110.28. TTB uses the collected information to ensure proper tax collection. TTB also aggregates the collected information to produce

generalized distilled spirits statistical reports for release to the public.

*Current Actions*: There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to a change in agency estimates resulting from continued growth in the number of DSPs in the United States, particularly small distilleries, TTB is increasing the number of annual respondents, responses, and burden hours reported for this collection.

*Type of Review*: Extension of a currently approved collection.

*Affected Public*: Businesses or other for-profits; State, local, and tribal governments.

**Estimated Annual Burden**

- *Number of Respondents*: 3,700.
- *Average Responses per Respondent*: 12.
- *Number of Responses*: 44,400.
- *Average Per-Response Burden*: 2 hours (1 hour for recordkeeping and 1 hour for reporting).
- *Total Burden*: 88,800 hours.

*OMB Control No. 1513-0058*

*Title*: Usual and Customary Business Records Maintained by Brewers.

*TTB Recordkeeping Number*: TTB REC 5130/1.

*Abstract*: The IRC at 26 U.S.C. 5415 requires brewers to keep records in such form and containing such information as the Secretary of the Treasury may by regulation prescribe as necessary to protect the revenue. Under that IRC authority, the TTB regulations in 27 CFR part 25 require brewers to keep usual and customary business records that allow TTB to verify various brewer activities, including, for example, the quantities of raw materials received at a brewery, the quantity of beer and cereal beverages produced and removed taxpaid or without payment of tax from a brewery, and the quantity of beer previously removed subject to tax that is returned to the brewery.

*Current Actions*: There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to a change in agency estimates resulting from continued growth in the number of breweries in the United States, TTB is increasing the number of annual respondents and responses to this information collection. But, TTB is removing the one hour of burden previously reported for this information collection as a place holder since, under the OMB regulations at 5 CFR 1320.3(b)(2), regulatory requirements to

maintain usual and customary records kept during the normal course of business place no burden on respondents.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profits.

#### Estimated Annual Burden

- *Number of Respondents:* 12,000.
- *Average Responses per Respondent:*

One.

- *Number of Responses:* 12,000.
- *Average Per-Response and Total*

*Burden:* None. (Under the OMB regulations 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the normal course of business place no burden on respondents as defined in the Paperwork Reduction Act.)

#### OMB Control No. 1513-0059

*Title:* Usual and Customary Business Records Relating to Tax-Free Alcohol.

*TTB Recordkeeping Number:* TTB REC 5110/05.

*Abstract:* In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax on distilled spirits produced or imported into the United States. However, under the IRC at 26 U.S.C. 5214, distilled spirits may be withdrawn free of tax for nonbeverage purposes for use by Federal, State, and local governments, certain educational organizations and institutions, research laboratories, hospitals, blood banks, sanitariums, and nonprofit clinics, subject to regulations prescribed by the Secretary. Under that IRC authority, the TTB regulations in 27 CFR part 22 require tax-free alcohol users to maintain certain usual and customary shipment, loss, consignment, return, and inventory records, which are kept during the normal course of business, in order to maintain accountability over tax-free spirits. Such accountability is necessary to protect the revenue.

*Current Actions:* There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to a change in agency estimates resulting from continued growth in the number of tax-free alcohol users, TTB is increasing the number of annual respondents and responses to this information collection. But, TTB is removing the one hour of burden previously reported for this information collection as a place holder since, under the OMB regulations at 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the

normal course of business place no burden on respondents.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profits; Federal Government, State, local, and tribal governments.

#### Estimated Annual Burden

- *Number of Respondents:* 5,600.
- *Average Responses per Respondent:*

One.

- *Number of Responses:* 5,600.
- *Average Per-Response and Total*

*Burden:* None. (Under the OMB regulations 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the normal course of business place no burden on respondents as defined in the Paperwork Reduction Act.)

#### OMB Control No. 1513-0071.

*Title:* Tobacco Products Importer or Manufacturer—Records of Large Cigar Wholesale Prices.

*TTB Recordkeeping Number:* TTB REC 5230/1.

*Abstract:* In general, the IRC at 26 U.S.C. 5701 imposes Federal excise taxes on tobacco products and cigarette papers and tubes, and, as described at 26 U.S.C. 5701(a)(2), the excise tax on large cigars is based on a percentage of the price at which such cigars are sold by the manufacturer or importer. In addition, the IRC at 26 U.S.C. 5741, requires every manufacturer and importer of tobacco products to keep records in such manner as the Secretary shall by regulation prescribe. Under those IRC authorities, the TTB regulations at 27 CFR 40.187 and 41.181 require that manufacturers and importers of large cigars maintain certain records regarding the price for which those cigars are sold. The required records are necessary to protect the revenue as they allow TTB to verify that the appropriate amount of Federal excise tax is paid on large cigars.

*Current Actions:* There are no program or estimated burden changes associated with this information collection, and TTB is submitting it for extension purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profits.

#### Estimated Annual Burden

- *Number of Respondents:* 300.
  - *Average Responses per Respondent:*
- 1.
- *Number of Responses:* 300.
  - *Average Per-Response Burden:* 2.33 hours.

- *Total Burden:* 699 hours.

#### OMB Control No. 1513-0119

*Title:* Certification of Proper Cellar Treatment for Imported Natural Wine.

*TTB Form or Recordkeeping Number:* None.

*Abstract:* Under the IRC at 26 U.S.C. 5382(a)(3), importers of natural wine produced after December 31, 2004, must provide the Secretary with a certification, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment. That IRC section also contains alternative certification requirements or exemptions for natural wine produced and imported under certain international agreements, as well as for such wine imported by an owner or affiliate of a domestic winery. In addition, the Federal Alcohol Administration Act at 27 U.S.C. 201 *et seq.* (FAA Act) vests the Secretary with authority to prescribe regulations regarding the identity and quality of alcohol beverages. Under those authorities, the TTB wine regulations in 27 CFR part 4 and its alcohol beverage import regulations in 27 CFR part 27 implement the IRC's proper cellar treatment certification requirement for imported natural wine.

*Current Actions:* There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to changes in agency estimates resulting from the implementation of several international wine production agreements, and the use of previously-submitted certificates by importers, TTB is reducing the number of annual respondents, responses, and burden hours associated with this information collection. TTB notes that since the adoption of the IRC section requiring certification of proper cellar treatment for imported natural wine, the United States has entered into wine production agreements with over 30 nations, including the world's largest wine producing countries. Therefore, as provided in the IRC at 26 U.S.C. 5382(a)(3), the majority of the natural grape wines imported into the United States are exempt from that section's certification requirement. In addition, TTB posts the submitted certificates to its website, and other importers may reference an existing certificate in lieu of providing their own. As a result of those actions, the number of certificates of proper cellar treatment for imported natural wine TTB receives annually has decreased significantly in recent years.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profits.

**Estimated Annual Burden**

- *Number of Respondents:* 50.
- *Average Responses per Respondent:* One (1).
- *Number of Responses:* 50.
- *Average Per-Response Burden:* 0.33 hour.
- *Total Burden:* 17 hours.

OMB Control No. 1513-0138

*Title:* Tax Class Statement Required on Hard Cider Labels.

*TTB Form or Recordkeeping Number:* None.

**Abstract:** The IRC at 26 U.S.C. 5041 imposes six Federal excise tax rates on wine, the lowest of which is the hard cider tax rate listed in section 5041(b)(6), while the IRC at 26 U.S.C. 5368(b) provides that wine can only be removed in containers bearing the marks and labels evidencing compliance with chapter 51 of the IRC as the Secretary may by regulation prescribe. Also, section 335(a) of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act, Pub. L. 114-113) recently modified the definition of hard cider in the IRC at 26 U.S.C. 5041(g) to broaden the range of products eligible for the hard cider tax rate. In addition, TTB's FAA Act-based wine labeling regulations in 27 CFR part 4 allow the term "hard cider" to appear on wine labels even if the product does not meet the definition of "hard cider" for tax purposes under the IRC. In light of this, in order to adequately identify products eligible for the hard cider tax rate, the TTB regulations in 27 CFR parts 24 and 27 require the tax class statement, "Tax class 5041(b)(6)," to appear on containers of domestic and imported wines, respectively, for which that tax rate is claimed. The placement of the hard cider tax class statement on such wine labels is necessary to protect the revenue as it evidences compliance with the IRC's statutory requirements and identifies products for which the taxpayer is claiming the hard cider tax rate.

**Current Actions:** There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to a change in agency estimates resulting from growth in the number of hard cider products in the marketplace, TTB is increasing the number of annual respondents, responses, and burden hours reported for this collection.

**Type of Review:** Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profits.

**Estimated Annual Burden**

- *Number of Respondents:* 800.
- *Average Responses per Respondent:* One (1).
- *Number of Responses:* 800.
- *Average Per-Response Burden:* 1 hour.
- *Total Burden:* 800 hours.

Dated: January 2, 2020.

**Amy R. Greenberg,**

*Director, Regulations and Rulings Division.*

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**BILLING CODE 4810-31-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Summary of Precedent Opinion of the General Counsel

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Office of the General Counsel (OGC) involving Veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in claim matters involving the same legal issue. This summary is published to provide the public and, in particular, Veterans' benefits claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Hill, Law Librarian, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461-7624.

**SUPPLEMENTARY INFORMATION:** A VA regulation at 38 CFR 2.6(e)(8) delegates to the General Counsel the power to designate an opinion as precedential, and 38 CFR 14.507(b) specifies that precedent opinions involving Veterans' benefits are binding on VA officials and employees in subsequent matters involving the legal issue decided in the precedent opinion. The interpretation of the General Counsel on legal matters, contained in such opinions, is conclusive as to all VA officials and employees in all adjudications and appeals involving the same legal issues in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel or a judicial decision.

VA publishes summaries of such opinions in order to provide the public

with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist Veterans' benefits claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above or by accessing the opinions on the internet at [http://www.va.gov/ogc/precedent\\_opinions.asp](http://www.va.gov/ogc/precedent_opinions.asp).

### VAOPGCPREC 3-2019

#### Questions Presented

1. Who is eligible to file a claim as a "survivor" under the effective date provision of the Blue Water Navy Vietnam Veterans Act of 2019 ("the BWN Act"), Public Law 116-23, to be codified at 38 U.S.C. 1116A(c)?

2. Does the BWN Act authorize the Department of Veterans Affairs (VA) to pay estates, as if they were eligible payees under the Final Stipulation and Order in *Nehmer v. United States Veterans Admin.*, No. CV-86-6160 (N.D. Cal. 1991) ("the *Nehmer* stipulation")?

3. Are veterans or their survivors who were granted disability compensation or survivor benefits under *Procopio v. Wilkie*, 913 F.3d 1371 (Fed. Cir. 2019), potentially eligible for earlier effective dates under the *Nehmer* stipulation or under the BWN Act?

#### Held

1. As used in 38 U.S.C. 1116A(c), the term "survivors" refers to those relatives of veterans who are eligible for dependency and indemnity compensation (DIC) and/or accrued benefits under title 38, United States Code.

2. The BWN Act does not authorize VA to pay benefits to estates of claimants. The BWN Act did not adopt or extend the *Nehmer* court rulings authorizing payments to estates of certain benefits payable under the *Nehmer* stipulation. No other provisions of title 38, United States Code, authorize VA to pay benefits under 38 U.S.C. 1116A to estates of claimants.

3. The *Nehmer* stipulation operates to void a final decision on a veteran's or survivor's benefits claim only when the Secretary of Veterans Affairs establishes a new presumption of service connection pursuant to the Agent Orange Act of 1991, Public Law 102-4, codified at 38 U.S.C. 1116(b). The *Procopio* decision does not establish a new presumption pursuant to the process described in section 1116(b) and accordingly does not provide authority for VA to void final decisions on