

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Requirement

OMB Control Number 1513-0086

TTB REC 5130/3 - Marks on Equipment and Structures
TTB REC 5130/4 - Marks and Labels on Containers of Beer

A. Justification.

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

Beer other than beer used in manufacturing processes is taxed at the rate of \$18.00 per barrel of 31 gallons (\$7.00 for certain small brewers). To safeguard the revenue from this tax, Congress provided in title 26 U.S.C., Subtitle E, a comprehensive system of regulating breweries and collecting excise taxes on beer.

As part of this system, 26 U.S.C. 5552 provides that the Secretary of the Treasury may require installation of meters, tanks, pipes, or any other apparatus at a brewery necessary for the protection of the revenue. 26 U.S.C. 5412 requires that taxpaid beer removed from the brewery for consumption or sale be in containers marked, branded, or labeled under such regulations as the Secretary may prescribe. Title 26 U.S.C. 5053 and 5414 allow the removal of nontaxpaid beer from the brewery for export; for manufacturing purposes; for laboratory analysis; for research, development, or testing; or for transfer to another brewery of the same ownership, in such containers and under such regulations as the Secretary may prescribe. Title 26 U.S.C. 5413 allows brewers to obtain barrels from other brewers, marked or branded for the producing brewer under certain circumstances. Title 26 U.S.C. 5415 authorizes the Secretary to require brewers to make true and accurate returns of operations and transactions as authorized by regulations.

Implementing regulations contained in 27 CFR Part 25 cover the location, construction, equipment, operation, and qualification of breweries and pilot brewing plants.

The following regulations in 27 CFR Part 25 are included:

§ 25.24 Storage of beer.
§ 25.35 Tanks.

- § 25.141 Barrels and kegs.
- § 25.142 Bottles.
- § 25.143 Cases.
- § 25.145 Tanks, vehicles, and vessels.
- § 25.192 Removal of sour or damaged beer.
- § 25.196 Removals for research, development or testing.
- § 25.231 Finished beer.
- § 25.242 Markings.
- § 25.251 Authorized removals.
- § 25.263 Production of concentrate and reconstitution of beer.

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

Records that are described as usual and customary at a brewery are those records that we believe the brewer would consider necessary for the purpose of internal control, cost accounting, product identification, or equipment utilization. Without the information required by these records, the brewer would be unable to account for raw materials, production of beer, and beer in storage or processing activities. Without markings required on containers of beer, the brewer would have no ready data as to the quantity or the identity of the contents of a container, nor would the consumer be able to identify the brewer or beer product. Without the markings on equipment, the brewer would not be able to determine the capacities and authorized uses of such equipment.

TTB inspectors and auditors use marks on structures and equipment during revenue inspections to identify the use and capacity of structures and equipment. Accordingly, 27 CFR 25.35 requires each stationary tank, vat, cask, and other container used as a receptacle for wort (non-fermented beer), beer, or beer concentrate to be marked with a serial number and its capacity. When taxpaid beer produced by other brewers is stored on brewery premises, 27 CFR 25.24 authorizes the appropriate TTB officer to require the brewer to mark the brewery premises or the taxpaid beer in order to differentiate between taxpaid and nont taxpaid beer at the brewery.

Under 27 CFR 25.141, 25.142, and 25.143, marks are required on kegs, cans, bottles, and cases of beer removed from the brewery. These marks identify the name or trade name of the brewer, the place of production of the beer, the contents of bottles and cans, and the nature of the product (beer, ale, etc.). These markings are necessary to identify the product as a taxable commodity, to establish the beer stored at the brewery.

Without the collection of information on TTB REC 5130/4, TTB would be unable to verify the quantities of beer, cereal beverage, or other liquids removed from the brewery, and would be unable to determine the taxable status of beer so removed. The lack of such markings would severely hamper the brewer in maintaining records and a TTB officer in verifying those records.

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?

We will approve, on a case-by-case basis, the use of improved technology.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

The Federal Information Locator System (FILS) program has been terminated for agency use. However, an agency subject classification system is used to identify duplication. Similar information is not available elsewhere for this information collection requirement.

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

Identifying marks on labels of beer are necessary for identification of the product and brewer by TTB, the public, and the brewer. Moreover, this collection of information would be used by the brewer in the normal conduct of business. TTB cannot reduce this requirement on the basis of size of entity. Identifying marks on structures and equipment are necessary to identify the product at the brewery and to take inventories of beer at the brewery. TTB, therefore, cannot reduce this requirement on the basis of size of entity.

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?

The information collected is unique to each brewery regarding markings on structures and equipment, and marks on containers of beer. The marking of equipment and structures are a one-time requirement. Thus, a less frequent requirement would be no marks at all. Regulations in Part 25 require the marking, branding, or labeling of all portable containers of beer. In this instance, a less frequent marking requirement would permit beer to be sold to consumers in unlabeled containers, which did not identify the product or the brewer. Thus, there is no practical method to reduce the frequency of collection.

7. Are there any special circumstances associated with this information collection?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day notice was published in the Federal Register (72 FR 3194) on Wednesday, January 24, 2007. The notice solicited comments from the general public. TTB received no comments in response to this notice.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

All information collections discussed in this supporting statement are maintained by the brewer at the brewery. The information collection contained in the marking, branding, and labeling requirements discussed in this supporting statement is disclosed to the public because it applies to consumer packages or containers moving in commerce. These requirements represent a disclosure of information, which is necessary for the brewer to do business.

11. What justification is there for questions of a sensitive nature?

We ask no questions of a sensitive nature.

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

These recordkeeping requirements involve marking equipment and structures at the brewery, and branding and labeling containers of beer sold to the public. These activities are considered usual and customary for a person operating a manufacturing facility, and producing a consumer product. These requirements are considered the brewer's usual and customary business records which would be maintained by the brewer even without the requirement to keep them. Thus, in accordance with 5 CFR 1320.7(b)(1), the total annual burden for all regulated individuals is estimated to be 1 hour.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

No cost is associated with this collection.

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

There is no cost to the Federal government for this collection of information.

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There are no program changes or adjustments associated with this collection. However, the number of respondents have increase but the burden hours remain at 1.

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

The results of this collection will not be published.

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?

It would be inappropriate to display the expiration date for OMB approval because this request requires markings on containers and equipment. Therefore, unlike the form, there is no medium to display the expiration date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.