

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement -- Information Collection Request**  
**OMB Control Number 1513-0086**

Information Collection Request Title:

Marks on Equipment and Structures (TTB REC 5130/3) and Marks and Labels on Containers of Beer (TTB REC 5130/4).

**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, as amended (IRC, 26 U.S.C.), 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 has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

The IRC, at 26 U.S.C. 5051, imposes an excise tax of \$18.00 per barrel (31 gallons) on domestic and imported beer removed for consumption or sale in the United States. This section also provides for a lower excise tax rate of \$7.00 a barrel on the first 60,000 barrels of beer produced in a calendar year by certain small domestic brewers. To safeguard the revenue generated by this excise tax and ensure its collection, chapter 51 of the IRC also provides for a comprehensive system of regulating breweries. The IRC sections related to this collection include:

- 26 U.S.C. 5053, which provides that brewers may remove beer from a brewery without payment of tax under such regulations as the Secretary may prescribe for the purposes of export or use by a foreign embassy, when unfit for beverage use, for destruction, or for laboratory analysis, research, development, or testing.
- 26 U.S.C. 5412, which provides that beer may be removed from a brewery for consumption or sale only in containers "marked, branded, or labeled in such manner as the Secretary may by regulation require \* \* \*."
- 26 U.S.C. 5413, which provides that a brewer may obtain beer from another brewer under such regulations as the Secretary may prescribe using his own containers "marked with his name and address \* \* \*."

- 26 U.S.C. 5414, which provides that beer may be transferred from one brewery to another brewery owned by the same brewer, without payment of tax, “subject to such conditions \* \* \* and in such containers, as the Secretary by regulations shall prescribe.”
- 26 U.S.C. 5415, which requires brewers to keep records in such form and containing such information as the Secretary shall prescribe by regulation.
- 26 U.S.C. 5552, which provides that the Secretary of the Treasury may require breweries to install meters, tanks, pipes, and any other apparatus that the Secretary deems necessary for the protection of the revenue.

Under these IRC authorities, the TTB regulations in 27 CFR Part 25, Beer, require marks, signs, and suitable measuring devices on brewery equipment and structures in order to identify their use, capacity, and contents, and to identify taxpaid and nont taxpaid beer. These marks, signs, and measuring devices are covered by recordkeeping requirement TTB REC 5130/3, Marks on Equipment and Structures. The TTB regulations in part 25 also require marks, brands, and labels on kegs, cans, bottles, and cases of beer in order to identify the products in those containers. The required marks, brands, and labels also must identify the name or trade name of the brewer, the place of production of the beer, the contents of the container, and the nature of the product (beer, ale, etc.). These product marking requirements are covered by recordkeeping requirement TTB REC 5130/4, Marks and Labels on Containers of Beer.

The regulations mandating the placement of the required marks, signs, and measuring devices on brewery equipment and structures and the placement of marks, brands, and labels on beer containers apply to breweries and pilot brewing plants. These two information collection requirements (hereafter referred to collectively as the “marks and labels” requirements) are necessary to protect the revenue and for the effective administration of the IRC’s beer excise tax provisions. The TTB regulations mandating these marks and labels are found in 27 CFR part 25 at:

- § 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.

TTB believes that, for the purposes of production and inventory control, cost accounting, equipment utilization, and product identification, brewers would place the required marks

and labels on brewery equipment and structures and on beer containers during the normal course of business, even without the TTB regulatory requirements to do so.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

The TTB regulations in 27 CFR part 25 require marks, signs, and suitable measuring devices on brewery equipment and structures in order to identify their use, capacity, and contents, and to identify taxpaid and nontaxpaid beer. TTB's part 25 regulations also require marks, brands, and labels on beer containers in order to identify the name or trade name of the brewer, the place of production of the beer, the contents of the container, and the nature of the product (beer, ale, etc.).

Brewers place the required marks and labels for the purposes of production and inventory control, cost accounting, equipment utilization, and product identification. These usual and customary marks and labels are placed and maintained by brewers at their business premises, or placed on beer containers removed from the brewery, during the normal course of business. In order to protect the revenue by ensuring the correct payment of the beer excise tax, these marks and labels are routinely examined by TTB personnel during field audits and inspections. The required marks and labels also ensure that brewers produce, package, store, ship, and transfer beer in accordance with Federal laws and regulations.

*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?*

Brewers may use technologies of their choosing to meet the regulatory requirements to place the required marks and labels on brewery equipment and structures and on beer containers.

*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?*

The required marks and labels on brewery equipment and structures and on beer containers are pertinent and unique to each brewer's place of business, and they do not duplicate other collected information.

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

In order to protect the revenue by ensuring the correct payment of the beer excise tax, the required marks and labels are routinely examined by TTB personnel during field audits and inspections of breweries. We consider these identification requirements to be the minimum necessary to ensure compliance with TTB administered laws and regulations. TTB believes

that waiver or reduction of these requirements simply because a respondent's business is small could jeopardize the revenue.

*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 placement of marks, signs, and measuring devices on brewery equipment and structures is a one-time requirement. Thus, the only method available to reduce these requirements is to not require such marks, signs, and measuring devices, which would jeopardize the revenue. The regulations also require the placement of marks, brands, and labels on containers of beer removed from the brewery. A less frequent requirement would permit beer to be removed in unlabeled containers, which would not identify a container's product or brewer to the public or to other brewers. As such, the regulatory requirements to place marks, brands, and labels on beer containers cannot be reduced.

*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.

*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 general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on August 22, 2016, at 81 FR 56751. TTB received no comments on this information collection in response to that notice.

*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 collection.

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

No specific assurance of confidentiality is provided for these two information collection requirements, which consist of usual and customary marks, signs, and measuring devices placed on brewery equipment and structures, and of usual and customary marks, brands, and labels placed on containers of beer removed from the brewery for consumption by the public, all of which would be placed during the normal course of business.

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 disclosure is specifically authorized by the IRC.

*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.*

The two information collections approved under this OMB control number, which consist of marks and labels placed on brewery equipment and structures or on containers of beer, contain no questions of a sensitive nature.

In addition, these two information collections do 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 hour burden of this collection of information?*

These two information collections require the placement of marks and labels on brewery equipment and structures and on containers of beer. These activities are usual and customary for a person operating a manufacturing facility and producing a consumer product. As such, a brewer would place the required marks and labels during the normal course of business, even without the regulatory requirements to do so.

Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden for the 6,700 brewers currently regulated by TTB, and who are thus required to respond to these usual and customary marking and labeling requirements, is estimated to be one hour (represents a place holder not an actual estimate of burden).

*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)?*

This information collection consists of usual and customary marks and labels that a brewer places on brewery equipment and structures and on containers of beer during the normal course of business. Therefore, there is no cost to respondents associated with this collection.

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

There is no cost to the Federal Government for the placement and maintenance of usual and customary marks and labels by brewers on their equipment and structures and on their beer containers.

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

There are no program changes associated with this information collection.

As for adjustments, we are increasing the estimated number of respondents to 6,700 to reflect the growth in the number of brewers regulated by TTB, which is largely due to the increase in the number of small “craft” brewers that have opened in recent years. However, under the provisions of 5 CFR 1320.3(b)(2), there is no corresponding increase in the total estimated burden hours for this information collection, which remain at one hour, since it consists of usual and customary marks and labels placed by brewers during the normal course of business.

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

TTB will not publish the results of this 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?*

This information collection consists of usual and customary marks and labels placed by brewers on their equipment and structures and on their beer containers during the normal course of business. As such, there is no prescribed TTB form for these two information collections, and, therefore, there is no medium for TTB to display the OMB approval expiration date.

18. *What are the exceptions to the certification statement?*

- (c) See item 5 above.
- (g) These two information collections consist of usual and customary marks and labels placed by brewers on their equipment and structures or on their beer containers. As such, there is no prescribed medium for TTB to inform respondents of the information called for under 5 CFR 1320.8 (b)(3).
- (i) No statistics are involved.
- (j) See item 3 above.

**B. Collections of Information Employing Statistical Methods.**

This collection does not employ statistical methods.