

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513–0087

Labeling and Advertising Requirements under the Federal Alcohol Administration Act

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 the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. chapter 8), 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 (Secretary) has delegated certain FAA Act administrative and enforcement authorities to TTB through Treasury Order 120–01.

The FAA Act at 27 U.S.C. 205(e) and (f) specifically requires the Secretary to issue regulations regarding the labeling and advertising of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements in the labeling and advertising of alcohol beverages, and ensure that such labeling and advertising give consumers adequate information as to the identity, quantity, and quality of such products.

Under those FAA Act authorities, TTB has issued regulations regarding the labeling and advertising of alcohol beverages, which are currently contained in 27 CFR part 4 for wine, part 5 for distilled spirits, and part 7 for malt beverages. Specific to this information collection, the TTB regulations in those parts require bottlers and importers of alcohol beverage products to disclose certain mandatory information on the labels of and in advertisements for such products, including the product's brand name, identity (type and class), producer's name and address, alcohol and net content, and the presence of FD&C Yellow No. 5 or the coloring materials cochineal or carmine.¹ Those regulations also require bottlers and importers to adhere to certain presentation standards for the required information on labels and in advertisements, including requirements that the information appear on a contrasting background and meet certain type size requirements based on the size of a product's container.

As currently approved, the mandatory information and presentation standard requirements approved under this information collection request appear in the following regulatory sections:

¹ The mandatory label disclosure of sulfites in alcohol beverage products is covered under OMB Control No. 1513–0084, while the voluntary labeling of major food allergens in such products is covered under OMB Control No. 1513–0121.

4.32	4.38	4.38a	4.39	4.62
4.64	5.32	5.33	5.41	5.42
5.63	5.65	7.22	7.28	7.29
7.52	7.54.			

Public disclosure of the mandated information in conformity with the specified presentation standards is necessary to prevent consumer deception and use of misleading statements in the labeling and advertising of alcohol beverages, and to ensure that such labels and advertising provide consumers with adequate information as to the identity, quantity, and quality of such products.

Proposed Rulemaking-related Changes

In Notice No. 176, Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages, a proposed rule published in the Federal Register on November 26, 2018 (83 FR 60562), TTB is proposing to comprehensively amend and reorganize its regulations governing the labeling and advertising of alcohol beverages in order to improve understanding of the regulatory requirements and to make compliance easier and less burdensome for industry members. The mandatory label information requirements approved under this information collection currently contained in 27 CFR parts 4, 5, and 7 appear in the proposed regulations described in Notice No. 176 in the following sections:

4.62	4.63	4.81 – 4.98	4.121 – 4.131
4.133 – 4.136	5.62	5.63	5.81 – 5.90
5.121 – 5.130	7.63	7.81 – 7.85	7.121 – 7.132

Currently, the TTB regulations in part 4 for wine and part 5 for distilled spirits require that all mandatory label information required under this information collection must appear on closed consumer packaging of such products, including opaque coverings, cartons, cases, and carriers.² As proposed in Notice No. 176, these requirements appear at §§ 4.62 and 5.62. In addition, in Notice No. 176, TTB is proposing to add this requirement for malt beverage products at § 7.62. TTB believes this requirement for malt beverages is consistent with its current regulations for wine and distilled spirits and is necessary to protect the consumer.

Also, as proposed in Notice No. 176, the current subparts of 27 CFR parts 4, 5, and 7 that relate to advertising are removed from those parts and consolidated into a new part 14. As such, the current advertising-related information collection requirements approved under OMB Control No. 1513–0087 appear in the proposed part 14 regulations described in Notice No. 176 in §§ 14.6, 14.12, and 14.14 through 14.17.

The regulatory revisions proposed in Notice No. 176 are intended to simplify and clarify TTB’s alcohol beverage labeling and advertising regulatory standards, and incorporate statutory changes, international agreements, recent case law, and current TTB guidance

² The current regulations regarding mandatory label information to appear on closed coverings for wine and distilled spirits are found in 27 CFR 4.38a and 5.41, respectively.

documents and policy into the regulations. As for the additional mandatory information disclosure requirement for closed malt beverage consumer packaging, TTB does not believe that this requirement will increase the estimated burden of this information collection because the mandatory information is already collected and disclosed for the purposes of labeling under this collection requirement. TTB also believes that most malt beverage industry members currently place all mandatory information that is required to appear on the label on such closed packages. Therefore, TTB believes that this new disclosure requirement will not add additional burden hours to this information collection request.

This information collection is aligned with —

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: None.

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

The mandatory information disclosed on alcohol beverage labels and advertisements may be used by consumers when considering purchases of such products. Under the TTB regulations, this information includes, among other things, an alcohol beverage product's brand name, identity (class and type, such as "Chardonnay," "bourbon," "stout,"), producer name and address, alcohol and net content, and the presence of certain allergens. TTB requires disclosure of the mandated information, in a readily apparent and legible manner, to prevent consumer deception and use of misleading statements in the labeling and advertising of alcohol beverages, and to ensure that such labels and advertising provide consumers with adequate information as to the identity, quantity, and quality of such products, as directed by the FAA Act.

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?

The use of improved information technology is not applicable to a collection of information required for the purpose of making disclosures to the general public through the labeling and advertising of a consumer product.

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?

Identifying similar sources of information is not applicable to a collection of information required for the purpose of making disclosures to the general public through the labeling and advertising of a consumer product.

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

The FAA Act provides that regulations issued under its authority should, among other things, prohibit consumer deception and the use of misleading statements in the labeling and advertising of alcohol beverages, and ensure that such labeling and advertising give the

consumer adequate information as to the identity, quantity, and quality of such products. As such, the TTB regulations regarding the disclosure of certain mandatory information on alcohol beverages labels and in their advertisements cannot be reduced merely because of an entity's size. However, TTB notes that producers of alcohol beverage products not entered into interstate commerce may apply for a certificate of exemption that would exempt them from the requirements of the FAA Act and the TTB regulations covered under this information collection.

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 require disclosure of certain mandatory information to the public on labels and in advertisements of alcohol beverage products, under certain presentation standards, it would not be able to meet its statutory obligation under the FAA Act to prohibit consumer deception and the use of misleading statements regarding such products and ensure that consumers receive adequate information as to their identity, quantity, and quality. TTB requires the mandated disclosures only as alcohol beverage products are labeled or advertised and entered into interstate commerce. As such, it is not possible to require this information collection on a less frequent basis.

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 general public regarding the proposed recordkeeping requirements, TTB published a proposed rule, Notice No. 176, Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages, in the Federal Register on November 26, 2018, at 83 FR 60562–60693, which will be open for public comment for 120 days, until March 26, 2019.

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 assurance of confidentiality is provided for disclosures of information to the general public through the labeling and advertising of consumer products.

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. Additionally, as a requirement to disclose certain information to the general public through the labeling and advertising of alcohol beverage products, this information collection request does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required.

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

Based on recent data, TTB estimates that 9,552 alcohol beverage bottlers and importers will respond once annually to this third-party disclosure information collection, for a total of 9,552 responses. TTB further estimates that each response will take an average of 1 hour to complete, for an estimated total annual burden of 9,552 hours for this information collection request.

13. *What is the estimated annual cost burden to respondents or recordkeepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

The public disclosure of certain information regarding a consumer product on its label or in advertisements is a usual and customary business practice undertaken regardless of any regulatory requirement to do so. Therefore, TTB believes that this information collection does not impose any annualized costs on respondents.

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

There is no cost to the Federal Government associated with this third-party disclosure information collection request.

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

Program changes: As described in Notice No. 176, Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages, published by TTB in the Federal Register on November 26, 2018, at 83 FR 60562, TTB is proposing to amend and reorganize its regulations governing the labeling and advertising of alcohol beverages as part of its regulatory modernization program. In order to simplify and clarify those regulations in order to make compliance easier and less burdensome for industry, the proposed changes will incorporate statutory changes, international agreements, recent case law, and current TTB guidance documents and policy into TTB's FAA Act-based regulations.

The mandatory alcohol beverage product labeling information and the related presentation standards currently contained in 27 CFR parts 4, 5, and 7 and approved under this

information collection will be maintained and redistributed among the revised parts 4, 5, and 7 regulations as described above in the response to Question 1.

The TTB regulations in part 4 for wine and part 5 for distilled spirits also currently require that all mandatory label information required under this information collection must appear on closed consumer packaging of such products, including opaque coverings, cartons, cases, and carriers. As proposed in Notice No. 176, these requirements appear at §§ 4.62 and 5.62. In Notice No. 176, TTB is proposing to add this requirement for malt beverage products at § 7.62.

In addition, as proposed in Notice No. 176, the current subparts of 27 CFR parts 4, 5, and 7 that relate to advertising are removed from those parts and consolidated into a new part 14. As such, the current advertising-related information and presentation standards approved under this information collection appear in the proposed part 14 regulations described in Notice No. 176 at §§ 14.6, 14.12, and 14.14 through 14.17.

Adjustments: There are no adjustments to this information collection associated with the proposed rule described in Notice No. 176.

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

TTB does not publish the results of this information collection request. However, this collection request does require respondents to make public disclosures of certain mandatory information on the labels of, and in advertisements for, alcohol beverage products.

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 information disclosed to consumers on alcohol beverage labels and in advertisements. As such, there is no prescribed TTB form for this collection, 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.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collection of Information Employing Statistical Methods.

This collection of information does not employ statistical methods.