

**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). The Secretary of the Treasury (Secretary) also has delegated various authorities to administer and enforce the FAA Act to the TTB Administrator through Treasury Order 120–01.

The FAA Act at 27 U.S.C. 205(e) and (f) specifically requires the Secretary to issue regulations governing the labeling and advertising of wine, distilled spirits, and malt beverages, and those sections provide that such 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. The legislative history of the FAA Act shows that Congress intended to grant broad rulemaking authority to the Secretary to ensure that alcohol beverage labels and advertisements meet these legislative goals.

Under that FAA Act authority, TTB has issued regulations regarding the labeling and advertising of alcohol beverages, which are codified 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 require alcohol beverage bottlers and importers to disclose certain mandatory product identity and content information on the labels of and in advertisements for such products, which must adhere to certain presentation standards for legibility and type size.

On alcohol beverage product labels and sealed opaque cartons or coverings, the TTB regulations mandate disclosure of a product's brand name, its identity by type and class (such as "Chardonnay," "bourbon," "stout"), its bottler, packer, or importer by name and address, its alcohol and net contents, and the presence of the coloring materials and potential allergens FD&C Yellow No. 5, cochineal, and carmine.<sup>1</sup> For distilled spirits, the TTB regulations also require certain products to disclose on their labels the use of neutral

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<sup>1</sup> 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.

spirits, coloring, flavoring, and blending materials, and their age. In addition, the TTB regulations require that the mandated label statements be readily legible, appear on a contrasting background, and meet certain type size requirements based on the size of the product's container.

In alcohol beverage product advertisements, the TTB regulations generally require disclosure of the responsible advertiser's name and address, the product's class, type, or distinctive designation as appropriate, and, for distilled spirits, alcohol content and certain information regarding the use of neutral spirits in the product. The regulations also provide that the required statements, whether in print, graphic, or audiovisual media, be apparent to the viewer, of sufficient size to be conspicuous and readily legible, and so stated as to be clearly part of, and not separate from, the advertisement.

The mandatory alcohol beverage label and advertisement statements and presentation standard requirements contained under this information collection request appear in the following TTB regulatory sections in 27 CFR:

4.32	4.38	4.38a	4.62	4.63
5.32	5.33	5.41	5.63	5.64
7.22	7.28	7.52	7.53	

In addition, while not requiring collection of information, §§ 4.33–4.37, 5.34–5.40, and 7.23–7.27 explain in detail the requirements for each mandatory label statement (brand name, class and type, name and address of bottler, packer, or importer, alcohol and net contents, etc.), while §§ 4.39, 4.64, 5.42, 5.65, 7.29, and 7.54 describe prohibited alcohol beverage labeling and advertising practices and statements.

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.

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?*

This information collection consists of certain product identity and content information disclosed to consumers through alcohol beverage labels and advertisements. TTB requires public disclosure of the mandated information, in conformity with its specified presentation standards, to meet its statutory obligation under the FAA Act 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. In turn, consumers use the required alcohol beverage label and advertisement information when considering purchases of such

products.

*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 this third-party disclosure information collection, which is made through the labels and advertisements of alcohol beverage products.

*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 public disclosure of information regarding the content and identity of alcohol beverage products through their labels and advertisements is a usual and customary business practice that would be undertaken by respondents regardless of any regulatory requirement to do so. Therefore, identifying similar sources of such information is not applicable to this third-party disclosure information collection.

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

Under the FAA Act, all bottlers and importers that enter alcohol beverage products into interstate commerce, regardless of their size, are subject to the Act's labeling and advertising provisions. As such, the TTB regulations requiring the disclosure of certain product identity and content information on the labels of and in the advertisements for alcohol beverages under prescribed presentation standards cannot be waived merely because of an entity's size. However, TTB notes that the public disclosure of such information on the labels of and in advertisements for alcohol beverages is a usual and customary business practice that would be undertaken by respondents regardless of any regulatory requirement to do so. Therefore, TTB has determined that this third-party disclosure information collection does not have a significant impact on a substantial number of small entities.

*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 issue regulations requiring the disclosure of certain product identity and content information on the labels of and in the advertisements for alcohol beverages under prescribed presentation standards, deceptive or misleading information about such products could be provided to consumers in contravention of the FAA Act. 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 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, TTB published a “60-day” comment request notice for this information collection in the Federal Register on Friday, August 24, 2018, at 83 FR 42975. TTB received no comments on this information collection.

*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?*

No assurance of confidentiality is provided for disclosure of information to the general public through the labeling and advertising of consumer products such as alcohol beverages.

*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. In addition, this collection consists of certain product identity and content information disclosed to consumers through alcohol beverage labels and advertisements. As such, this collection does not collect personally identifiable information (PII) in an electronic system, and 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?*

Based on recent data, TTB estimates that 11,500 alcohol beverage bottlers and importers will respond once annually to this information collection, for a total of 11,500 responses. While the public disclosure of information regarding the content and identity of alcohol beverage products through their labels and advertisements is a usual and customary business practice and is thus exempt from burden hour calculations under the OMB regulations at 5 CFR 1320.3(b)(2), TTB has determined that respondents may require up to one hour per response to verify that the required label and advertisement statements conform to TTB’s prescribed presentation standards. Therefore, TTB estimates that this information collection results in an estimated total annual burden of 11,500 hours.

(11,500 respondents x 1 annual response each = 11,500 annual responses x 1 hour per response = 11,500 estimated annual burden hours.)

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 information regarding the content and identity of alcohol beverage products through their labels and advertisements is a usual and customary business practice that would be undertaken by respondents regardless of any regulatory requirement to do so. Therefore, TTB has determined that this information collection does not impose any start-up, capital, maintenance, or operational costs on respondents.

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

There are no costs to the Federal Government associated with this third-party disclosure information collection.

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, due to a change in agency estimates resulting from continued growth in the number of alcohol beverage industry members, TTB is increasing the annual number of respondents, responses, and burden hours associated with this information collection from 9,552 to 11,500.

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. However, while this information collection requires the disclosure of certain product identity and content information to consumers through alcohol beverage labels and advertisements, such disclosures are a usual and customary business practice that would be undertaken by respondents regardless of any regulatory requirement to do so.

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 certain product identity and content information disclosed to consumers through alcohol beverage labels and advertisements. As such, there is no prescribed TTB form for this information collection, and there is no medium for TTB to display the OMB approval expiration date for this information collection.

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.