

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0086**

**Marks on Brewery 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 (Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

In general, the IRC at 26 U.S.C. 5051 imposes Federal excise tax on beer produced or imported into the United States, while other IRC sections concern excise exceptions and brewery operations and products, including: 26 U.S.C. 5053 (excise tax exemptions), 5056 (excise tax refund and credit), 5411 (brewery operations), 5412 (removals in containers), 5413 (procurements from other brewers), 5414 (removals to other breweries of same ownership), and 5552 (meters, tanks, and other apparatus). In addition, each of those IRC sections authorizes the Secretary to prescribe regulations to carry out their requirements.

Under those IRC authorities, the TTB regulations in 27 CFR Part 25, Beer, require brewers to place certain marks, signs, and measuring devices on brewery equipment and structures in order to identify their use, capacity, and contents, and to identify taxpaid beer stored or returned to brewery premises. The part 25 regulations also require brewers to place certain brands, labels, and marks on bulk and consumer containers of beer and other brewery products in order to identify the brewer, the product's place of production, the container's net contents, and the product's nature (beer, ale, concentrate, etc.). These third-party disclosures of information, hereafter collectively referred to as "brewery marks and labels," apply to all breweries and pilot brewery plants, and to all containers of beer, beer concentrate, sour beer, cereal beverages, and brewer's yeast produced at such facilities.

The TTB regulations in 27 CFR part 25 that contain provisions concerning brewery marks and labels are found in:

- § 25.24, Storage of beer. (Authorizes TTB to require marks to identify taxpaid beer stored on brewery premises; contains cross-references to §§ 25.25 and 25.213.)
- § 25.25, Operation of a tavern on brewery premises. (Requires marks to segregate taxpaid beer in accordance with § 25.24, and requires marks on any tax-determination tanks located at breweries with taverns.)
- § 25.35, Tanks. (Requires serial numbers, capacity marks, and measuring devices on stationary tanks, vats, casks, or other such containers used at breweries.)
- § 25.141, Barrels and kegs. (Describes the brands, marks, and labels required on barrels and kegs.)
- § 25.142, Bottles. (Describes the brands, marks, and labels required on bottles of beer, which by definition includes cans and similar containers; see § 25.11.)
- § 25.143, Cases. (Describes the information required on opaque cases or other shipping containers of bottled beer.)
- § 25.145, Tanks, vehicles, and vessels. (Describes the information required on tanks, tank cars, tank trucks, tank ships, or deep tanks of vessels used to ship or transfer beer, and where that information may be placed on such bulk containers.)
- § 25.192, Removal of sour or damaged beer. (Describes the marks required on, and the requirements for, containers of damaged and sour beer.)
- § 25.196, Removals for research, development or testing. (Describes the information required on containers of beer removed for research, development, and brewery testing purposes.)
- § 25.213, Beer returned to brewery other than that from which removed. (Requires segregation and identification of such returned beer.)
- § 25.231, Finished beer. (Authorizes a brewer to obtain finished beer from another brewer in barrels and kegs marked with the purchasing brewer's name and location.)
- § 25.242, Markings. (Describes the required designations, marks, and labels on bottles, kegs, and barrels, and labels of cereal beverages.)
- § 25.251, Authorized removals. (Describes the designations and labels required on containers of brewer's yeast.)
- § 25.263, Production of concentrate and reconstitution of beer. (Describes the marks required on containers of beer concentrate and the label information required on barrels, kegs, and bottles of beer produced from concentrate.)

The brewery marks and labels required under the part 25 regulations noted above allow TTB to identify the use, capacity, and contents of brewery equipment and structures, as well as identify taxable brewery products and the responsible taxpayer. As such, the required brewery marks and labels are necessary to protect the revenue and ensure effective administration of the IRC's provisions regarding brewery operations and products. Brewery marks and labels also allow other industry member and the general public to identify the contents of bulk and consumer containers of beer and other brewery products. However, for the purposes of inventory control, cost accounting, equipment utilization, and product identification, TTB believes the placement of the required brewery marks and labels is a usual and customary practice under taken by brewers during the normal course of business, regardless of any 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 brewery marks and labels required under the TTB regulations are necessary to protect the revenue and ensure effective administration of the IRC's provisions regarding brewery operations and products. During field audits and inspections, TTB personnel may examine brewery marks and labels to identify the use, capacity, and contents of brewery equipment and structures, and identify taxable brewery products and the responsible taxpayer. TTB requires such information to verify correct payment or determination of beer excise taxes, and to ensure compliance with Federal laws and regulations regarding brewery operations and product identification. In addition, other industry members and the general public use the required brewery marks and labels to identify the contents of bulk and consumer containers of beer and other brewery 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?*

Brewers may use technologies of their choosing to meet the regulatory requirements to place the required brewery marks and labels on their structures, equipment, and brewery product 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 brewery marks and labels are pertinent and unique to each brewer, and do not duplicate other third-party disclosure information.

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

TTB considers its brewery marks and labels requirements to be the minimum necessary to adequately identify a brewer's structures and equipment, and the contents of their bulk and consumer containers of brewery products. Waiver or reduction of those requirements simply because a respondent's business is small would jeopardize the revenue and TTB's ability to effectively administer Federal laws and regulations regarding brewery operations and product identification, and also would adversely affect the ability of other industry members and consumers to identify the contents of brewery product containers. In any event, TTB notes that the placement of the required brewery marks and labels is a usual and customary practice under taken by brewers during the normal course of business, regardless of any TTB regulatory requirements to do so.

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 usual and customary placement by brewers of the required marks and labels on their structures, equipment, and product containers is done once or on an as-needed basis. As such, this information collection cannot be conducted less frequently. If TTB did not require the specified brewery marks and labels, it could not identify a brewery's structures or equipment, and it could not identify the contents or tax status of brewery products. This would jeopardize the revenue and inhibit TTB's ability to effectively administer the statutory and regulatory provisions regarding brewery operations and products. In addition, not requiring the placement of brewery marks and labels on bulk and consumer containers of beer and other brewery products would prohibit other industry members and consumers from readily identifying the contents of such containers.

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 November 18, 2019, at 84 FR 63716. TTB received no comments on this information collection in response.

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?*

The placement by brewers of marks and labels on their structures, equipment, and product containers is a usual and customary practice undertaken during the normal course of business. As such, no specific assurance of confidentiality is provided for this third-party disclosure of information. TTB notes, however, that Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated industry members, 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.*

This information collection contains no questions of a sensitive nature. Also, this information collection 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 for this information collection.

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

Based on recent data, TTB estimates that 10,000 brewers will respond to this information collection once annually, for a total of 10,000 annual responses. However, per the OMB regulations at 5 CFR 1320.3(b)(2), there is no annual burden associated with the usual and customary placement by brewers of marks and labels on brewery structures, equipment, and product containers during the normal course of business.

*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)?*

There are no annualized costs to respondents associated with this information collection, which consists of usual and customary marks and labels placed by brewers during the normal course of business.

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

There are no costs to the Federal Government associated with this information collection, which consists of usual and customary marks and labels placed by brewers during the normal course of business.

*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 changes in agency estimates resulting from continued growth in the number of breweries in the United States, TTB is reporting an increase in the number of annual respondents and responses to this information collection, from 6,700 to 10,000. However, as the placement by brewers of the required information on their equipment and structures, and on their bulk and consumer containers of brewery products, is a usual and customary business practice, there is no annual burden associated with this third-party disclosure information collection per 5 CFR 1320.3(b)(2). As such, there is no increase in this information collection's estimated annual burden of zero hours. (TTB is removing the previously-reported one hour of total annual burden, which was reported only as a place holder in the ROCIS system.)

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

TTB will not publish the results of this information 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, structures, and product containers, which is done during the normal course of business. As such, there is no medium for TTB to display this information collection's OMB approval expiration date.

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

(c) See item 5 above.

(g) This information collection consist of usual and customary marks and labels placed by brewers on their equipment, structures, and product 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.

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

This information collection does not employ statistical methods.