

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0092

Marks on Wine Containers (TTB REC 5120/3)

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). Additionally, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

The IRC at 26 U.S.C. 5041 imposes a per gallon Federal excise tax of varying rates on six classes of wine—three classes of still wines (based on alcohol content), two classes of effervescent wines, and one class of hard cider.¹ The IRC at 26 U.S.C. 5368 also requires wine premises proprietors to mark or otherwise identify wines kept on or removed from their premises in the manner the Secretary prescribes by regulation. In addition, the IRC at 26 U.S.C. 5388 requires such proprietors to mark, transport, and sell wines under their proper designation as to kind and origin or, for non-standard wine, under a truthful statement of composition, subject to regulations issued by the Secretary. At 26 U.S.C. 5662, the IRC imposes criminal penalties on any person who alters, without the Secretary's permission, any required information on wine containers, or otherwise misrepresents the identity or origin of wine, after removal from wine premises or customs custody.

Under those IRC authorities, TTB regulations in 27 CFR Part 24, Wine, require wine premises proprietors to place certain identifying marks and labels on the production and storage containers kept on their premises, such as tanks, barrels, bins, and pallets. The part 24 regulations also require those proprietors to place certain identifying information, such as brand name, kind of wine, and alcohol content, on the labels of cases, bottles, and other wine containers prior to their removal from the wine premises. The specific part 24 regulations included in this collection requirement are §§ 24.96, 24.97, 24.115, 24.168, 24.213, 24.214, 24.215, 24.218, 24.255, 24.256, 24.257, 24.259, and 24.260.

¹ Per 26 U.S.C. 5041(b), the six wine excise tax classes are: (1) Still wines of not more than 14 percent alcohol by volume (ABV), (2) Still wines between 14 and not more than 21 percent ABV, (3) Still wines between 21 and not more than 24 percent ABV, (4) Champagne and other sparkling wines, (5) Artificially carbonated wines, and (6) Hard cider.

The required disclosures consist of usual and customary identifying information placed on wine containers by respondents during the normal course of business, regardless of any regulatory requirement to do so, in order to track production and inventory, and identify wines to the public. While disclosure of the required information is a usual and customary business practice, the TTB regulatory requirements to do so are necessary to protect the revenue. Because of the six different excise tax rates imposed on wines, and because respondents may produce different tax classes of wine at the same premises, the required information ensures that wines are correctly identified for excise tax purposes.

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?

Given the varying Federal excise tax rates on the six classes of wine defined in the IRC, the TTB regulatory requirements to display certain usual and customary identifying information on wine containers are necessary to protect the revenue. TTB personnel may examine the required third-party disclosures during audits or investigations of wine premises to ensure that proprietors have correctly identified their wines for excise tax purposes.

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?

Respondents display or place the required wine container marks, labels, and identifying information at their business premises, and they may use technologies of their choice to meet the requirements of this information collection.

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 disclosures made by the marks, labels, and other information required on wine production, storage, and consumer containers are pertinent to each respondent and specific to the content of each container. As far as TTB can determine, similar information is not available elsewhere.

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

Wine premises proprietors disclose the required identifying information on their wine containers during the normal course of business, regardless of any regulatory requirement to do so, in order to track their production and inventory, and identify their products to the public. As such, this information collection does not impose additional burdens or costs on small businesses or other small entities. In any event, given the need to identify wines for excise tax purposes, waiver or reduction of this third-party disclosure requirement, simply because the respondent's business is small, would 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?*

During the normal course of business, proprietors apply or change the required marks, labels, or information only as needed to identify the contents of their wine containers. Not requiring this third-party disclosure or requiring it less frequently would jeopardize the revenue and could result in the distribution of incorrectly identified wines.

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? (See 5 CFR 1320.5(d)(2).)*

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 public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on Thursday, September 3, 2020, at 85 FR 55067. 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?*

Because the required marks, labels, and other identifying information placed on wine containers are third-party disclosures made by wine premises proprietors and are intended for public display, TTB provides no assurance of confidentiality for this information collection.

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.*

There are no questions of a sensitive nature associated with this information collection. Additionally, this third-party disclosure does not collect or contain 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?*

Estimated respondent burden: Based on recent data, TTB estimates that 14,340 wine premises proprietors respond once annually to this information collection, for 14,340 annual responses. However, because such proprietors place the required identifying information on their wine containers as a usual and customary business practice, regardless of any regulatory requirement to do so, this third-party disclosure information collection places no annual burden on respondents, as described in the OMB regulations at 5 CFR 1320.3(b)(2).

Respondent labor costs: Per the OMB regulations at 5 CFR 1320.3(b)(2), there are no labor costs associated with usual and customary information collections, such as this third-party disclosure, which are undertaken by respondents during the normal course of business.

Respondent record retention: There is no TTB retention requirement for the required wine container marks, labels, and other identifying information, which respondents change during the normal course of business as circumstances warrant.²

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)?*

The placing of the required identifying information on wine containers by respondents is a usual and customary practice carried out during the normal course of business, regardless of any regulatory requirement to do so. Therefore, there are no additional annualized costs 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 this third-party disclosure requirement, which consists of marks, labels, and other information applied to wine containers by wine premises proprietors.

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

There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only.

As for adjustments, due to a change in agency estimates, TTB is increasing the number of respondents to this information collection requirement from 10,970 to 14,340. This increase is the result of continued growth in the number of regulated wine industry members in the United States. However, there is no increase in the burden hours associated with this collection since it consists of usual and customary marks, labels, and other information placed on wine containers by respondents during the normal course of business, which, under the OMB regulations at 5 CFR 1320.3(b)(2), places no annual burden on

² Under information collection requirements approved under OMB No. 1513-0115, Usual and Customary Business Records Relating to Wine, TTB REC 5120/1, respondents must keep various records, including records documenting the information placed on wine containers, which, under 27 CFR 24.300(d), they must retain for at least 3 years.

respondents. For the same reason, TTB is removing the one hour of annual burden previously reported for this information collection as a placeholder.

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 is a third-party disclosure of usual and customary identifying information displayed on or applied to wine containers by respondents. As such, there is no prescribed TTB form or other collection instrument for this information collection, and, as such, there is no medium for TTB to display its 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. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.