

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Requirement

OMB Control Number 1513-0047

TTB REC 5110/01 Distilled Spirits Records and
TTB F 5110.40 Monthly Report of Production Operations

A. Justification.

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

26 U.S.C. 5001(a)(1) sets forth that distilled spirits, other than those used for certain authorized nonbeverage purposes, are taxed at the rate of \$13.50 a proof gallon, a rate that is greater than production cost. To safeguard the revenue from this tax, Congress prescribed, in 26 U.S.C. 5207, that the proprietor of a DSP must maintain records of production, storage, denaturation, and processing activities and to render reports covering those operations. Regulations in 27 CFR 19.736 as amplified by other sections of the regulations, prescribe the records, which are unique to the production operation, and 27 CFR 19.792(b)(1) prescribes the reporting requirements for those operations. Records provided for by Part 19 requires the maintenance of those data elements necessary to account for fermenting materials, distilling materials (including chemical by-products, recovered spirits, articles, and residues for redistillation), and spirits or other chemicals produced or removed from the distilling system prior to the production gauge. These data elements include the following:

- a) Receipt of fermenting material or other non-alcoholic material for use in the production of spirits (27 CFR 19.736(a)(1) and 19.312);
- b) Fermenting material or other non-alcoholic material used in the production of distilling material or removed from the premises (27 CFR 19.736(a)(3), 19.736(a)(6), and 19.314);
- c) Distilling material produced or received (27 CFR 19.736(a)(4));
- d) Distilling material used in distillation, destroyed, or removed from the premises (27 CFR 19.736(a)(4) and 19.315); and
- e) Distilled spirits or other chemicals produced or removed from the distilling system prior to the production gauge (27 CFR 19.736(a)(8), 19.736(a)(9), 19.316, 19.326, and 19.327).

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

We use collections of information on DSP production operations for the protection of the revenue and for the compilation of statistics for use by our agency, other Government agencies, and industry. The production operations records required by Part 19 are used by our field personnel to verify the quantity of distilled spirits produced by a DSP proprietor. Since provisions of 26 U.S.C. 5001(b) prescribe that the tax liability attaches at the time of production, the verification of production is essential in establishing a proprietor's tax liability and adequacy of bond coverage. Production records, required by Part 19, are used to verify production by accounting of spirits.

27 CFR 19.792(b)(1) requires DSP proprietors to submit a Monthly Report of Production Operations on TTB F 5110.40, essentially a summary of various data elements from the proprietor's daily production records. TTB management, specialists, and the Director, National Revenue Center (NRC) use this report of production operations:

- To monitor industry operations for compliance with statutes and regulations,
- To analyze trends,
- To allocate field resources most effectively,
- To compile statistics, and
- As an audit tool in revenue protection inspections.

TTB F 5110.40 is examined by our specialists in the NRC for mathematical accuracy and indications of unusual or unauthorized activities. If discrepancies are found, the specialist may resolve them by contacting the permittee (either by letter or by telephone) or by initiating an inspection to be conducted by a TTB investigator. It should be noted that the primary purpose of the report is to establish accountability for the spirits produced rather than their ultimate disposition for taxable or non-taxable purposes.

Bureau management uses the monthly report of production operations to analyze trends in the industry and to plan the most efficient allocation of field resources. It is essential that management personnel have some means of determining who most needs to be inspected. In the absence of specific problems at specific establishments, we generally attempt to inspect the high volume establishments first. Operational reports provide that information and can thus serve as a management tool for determining inspection priorities.

If we did not conduct this collection of information, we would have to rely solely on our field investigators to monitor compliance with the laws and regulations governing production operations. Given the few investigators the Bureau has, this could only mean less overall scrutiny of these activities and, therefore, an increased potential for jeopardy to the revenue.

Our field investigators use TTB F 5110.40 to conduct tax compliance inspections at DSPs. In conducting a revenue inspection at such a plant, an investigator is typically faced with a volume of data far in excess of their ability to verify completely. The monthly summaries of operations, as reflected on the operational reports, provide an essential tool in those operations from which the investigator may determine which areas deserve closest scrutiny due to the relative jeopardy to the revenue. Also, it provides a basis upon which the investigator may plan a statistical sampling approach to verifying the data. Our regional specialists also summarize the monthly production reports into our monthly statistical releases. There are over 1,000 subscribers to this statistical release. Subscribers include other Federal agencies, State and local Governments, academic institutions, members of the press and trade associations.

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?

We have, and will continue to approve, on a case-by-case basis, the use of improved technology, for recording the information. TTB provides an electronic means, through Pay.gov, for manufacturers to submit the report, in addition to allowing manual reports by businesses that may not be able to use the electronic system. This system ensures the accuracy of the information being reported and reduces the need for amended reports.

4. What efforts are used to identity duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

TTB F 5110.40 collects information that is pertinent to each respondent and applicable to his/her specific operation. As far as we can determine, similar information is not available anywhere else.

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

This information collection in the production account constitutes a complete accounting of materials used, and distilled spirits produced. The information required is the minimum amount of information necessary for the accounting. Less information would make the accounting incomplete and render it useless. Therefore, this requirements cannot be reduced basis of the size of an entity; however, a small DSP may be expected to have fewer and smaller transactions, and the recordkeeping burden would be commensurately less.

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?

Production records, required by Part 19, are maintained on a continuing basis. They constitute a complete accounting for the production of distilled spirits. Any less frequent collections would render the accounting meaningless. Similarly, any less frequent submissions, of the Monthly Report of Production Operations, would severely restrict the utility of that form, for the users explained in item 2, above. Further, less frequent submissions of the report would impair the specialist's ability to detect discrepancies and to respond to them on a timely basis. NRC specialists examine TTB F 5110.40 looking for anomalies. It is these anomalies that trigger follow-up inspections. Less frequent reporting would have the effect of making unusual transactions by combining them with greater volume of data to cover a longer reporting period. Thus, any item appearing on the report could stand out as an anomaly when viewed as a percentage of the volume on a monthly report, but it would be dwarfed in significance in the larger volume of activity represented on a quarterly report.

If an anomaly was identified on a quarterly report, the problem could very well be three months old and have compounded itself by the time it was recognized and corrective action taken.

One element of the specialist's examination of monthly reports is the verification of adequate bond coverage under the regulations. However, there are times when bond coverage is not sufficient to cover accrued liabilities at the time monthly reports are monitored. If the operational reports were examined only quarterly, it would allow the accrual of even greater tax liabilities before bond coverage was monitored and would leave the Government exposed to greater risk.

Likewise, quarterly operational reports, as opposed to monthly reports, would be too infrequent to be used effectively as an auditing tool. Quarterly reports would provide too small a universe of items to examine, and each item examined would be so large as to make the use of statistical sampling meaningless. For example, if an investigator were to verify the quantity of spirits produced, which were entered into other DSP activities at the same plant over a four-year period, the investigator may (expecting an error occurrence of not over 2%) examine 158 of the 960 entries on lines 9 and 11 of Part I of TTB F 5110.40. The investigator would then be assured that the findings were reliable within + or - 2% with a confidence level of 95%.

Since each item on a monthly report represents an average 30 days of activities, the investigator would have to examine 4,740 daily records (16% of the daily records reflected in the report). If, on the other hand, the investigator were to examine quarterly reports with the same expectations, reliability and confidence level, the investigator must examine 128 of the 320 entries on those lines for the same period. Since each such entry on a quarterly report represents the total of 90 days activities, 11,520 daily records would have to be examined, representing 40% of the daily records for the account.

Monthly reports are the basic input in the compilation of our monthly statistical releases. Not only do we use these statistics for planning and analysis, we believe that the publication of our statistical releases on a monthly basis provides a valuable service to other Federal agencies, State Governments, or the industry itself. We believe that the monthly statistical report clearly meets the practical utility standard as defined in 5 CFR 1320.7 with regard to both agency usage and making the information available to the public.

Without the records and reports of production operations, we would be severely handicapped in performing our principal function of protecting the revenue derived from the distilled spirits tax, and would be unable to provide the Government with the statistics needed for effective economic planning and analysis.

7. Are there any special circumstances associated with this information collection?

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?

A 60-day notice was published in the Federal Register (74 FR 26920) on Thursday, June 4, 2009. The notice solicited comments from the general public. TTB received one comment from Dennis J. Fixler, Bureau of Economic Analysis, U.S. Department of Commerce in strong support of TTB collecting the data on TTB F 5110.40, and describing their use of the data.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

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 on this form. 26 U.S.C. 6103 protects the confidentiality of the information collected.

11. What justification is there for questions of a sensitive nature?

We do not ask questions of a sensitive nature in this collection.

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

There is no change in burden from the previous submission. 150 (respondents) X 12 (number of times filed annually) = 1,800 (number of responses) X 2 hours (processing time) = 3,600 (total burden hours).

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

We do not associate any cost with this collection.

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

Estimates of annual cost to the Federal Government are as follows:

Printing	\$ 680
Distribution	160
Clerical Costs	8,320
Other Salary (review supervisory, etc.)	11,110
Publication & Tabulation	870
TOTAL	<u>\$21,140</u>

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There are no program changes or adjustments associated with this collection.

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

The results of this collection will not be published.

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?

We will display the expiration date of OMB approval for this collection.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.