

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Requirement

OMB Control Number 1513-0044

Notice of Change in Status of Plant

A. Justification

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

A distilled spirits plant (DSP) is a delineated piece of property, covered by a bond, on which the law allows only certain activities to be conducted (26 U.S.C. 5178). However, to give the proprietor flexibility in the use of the premises and equipment, TTB regulations allow the plant or part of the plant to be alternated between different proprietors. TTB regulations also allow a proprietor to change the status of their plant between different types of operations, such as bonded wine cellar, taxpaid wine bottling house, general premises, manufacturer of eligible flavors, volatile fruit flavor concentrate premises, and for customs purposes.

Formerly, proprietors were required to provide TTB with advance notification of each change in proprietorship, change in operations, and a notice of when production operations commenced or were suspended, by filing a TTB F 5110.34, Notice of Change in Status of Plant.

The regulations amending 27 CFR part 19 eliminate the need for filing a TTB F 5110.34, Notice of Change in Status of Plant altogether. Instead of filing TTB F 5110.34, the regulations in 27 CFR part 19 will provide for the filing of a letterhead notice for alternation of proprietors and alternate use of the premises for customs purposes.

Further, the extension and curtailment of DSP premises in order to conduct various types of alternate operations has been simplified. A new, single section of regulations at § 19.143 provides for extension and curtailment of DSP bonded premises with general premises, an adjacent bonded wine cellar, an adjacent taxpaid wine bottling house, an adjacent brewery, and facilities for the manufacture of eligible flavors.

Under the amended regulations, proprietors will document these alternations in a record prescribed in § 19.627 at the time the alternation occurs, and proprietors will not be required to file a letterhead notice with TTB or a TTB F 5110.34. The record

prescribed in § 19.627 will allow for the use of commercial records, when the commercial records provide the same information required by § 19.627, and are retrievable and available for inspection by TTB officers. Records must be retained for 3 years. Records could be retained for an additional 3 years if deemed necessary.

These new procedures are covered in the following sections of regulations:

- 19.141 Procedures for alternating proprietors.
- 19.142 Alternate use of premises and equipment for customs purposes.
- 19.143 Alternation for other purposes.
- 19.144 Alternation of distilled spirits plant and volatile fruit-flavor concentrate plant premises.
- 19.292 Notice of operations.
- 19.627 Record of alternating premises.

This information collection is aligned with:

Treasury Strategic Goal: None.

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 letterhead notices required under 19.141 and 19.142 provide TTB with information concerning the commencement or suspension of production operations, alternation of proprietors, and the use of premises for customs purposes.

The procedures for alternating premises prescribed in 19.143, 19.144, and 19.627 document the status of the plant at any given time and thereby establishes whether the plant or a part of the plant is being used as a bonded wine cellar, taxpaid wine bottling house, brewery, or manufacturer of eligible flavors.

The status of a plant establishes how the plant is being used and the person that is legally liable for operations at any given time. It provides TTB with information concerning the current status of the premises, i.e., whether DSP, bonded winery, etc. which, in turn, determines what activities may legally be conducted thereon, and the type and extent of the bond required.

To permit the change in status without documenting these changes would jeopardize the revenue. Furthermore, the notices and records provide TTB with valuable information when making field visits to a distilled spirits plant. If TTB is aware that a plant, or portion of a plant, is currently in bonded winery status, the agency knows that distilled spirits are not permitted on the premises. As such, TTB would be in a position to recognize a potential violation that might otherwise be overlooked.

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?

TTB has approved and will continue to approve, on a case-by-case basis, the use of improved technology for the collection and maintenance of required information.

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

This information is a statutory requirement and the information is pertinent only to the respondent. As far as we 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?

TTB does not use any method to minimize burden to small businesses since all entities, regardless of size, are required by statute to comply with these requirements. This information collection is required to protect the revenue and is considered to be the minimum necessary to ensure compliance with existing statutes and regulations. In order to simplify the notification requirement and minimize the burden on all taxpayers, TTB uses a notice or records to cover a number of different status changes.

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?

Without the information that this requirement provides, TTB would be unable to know the status of a plant at any given time and thus unable to know whether the proprietor was qualified to conduct particular operations, the sufficiency of the bond coverage, or whether a given alternation was properly conducted.

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 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.

A 60-day Federal Register notice was published for this information collection on Monday, November 29, 2010, 75 FR 73165. The notice solicited comments from the general public. TTB received no comments.

A NPRM for the revision to part 19 was published on May 8, 2008 (73 FR 26200). In response to Notice No. 83, TTB received 7 comments. Six of the comments expressed strong support for the revisions to part 19 and commented on specific areas of agreement and recommendations for further changes. The comments were supportive of efforts to reduce burden of forms by allowing letterhead applications and notices. No comments were opposed to changes that are affected by this information collection. As a result, a final rule was drafted to reflect the changes that were proposed in Notice No. 83. That final rule (T.D. TTB-92) was published in the Federal Register on Wednesday, February 16, 2011 (76 FR 9080)

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 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 specific assurance of confidentiality is provided; however, 26 U.S.C. 6103 protects the confidentiality of the information collected.

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

Information of a sensitive nature is not required.

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

We estimate that there are approximately 100 respondents who generate approximately 1,000 responses annually. Further, we estimate that each response, whether a letterhead notification or a record entry prescribed by 19.627 will take approximately 30 minutes. Total annual burden – 500 hours. That is a 500 hour decrease from the previous form submission because it takes less time to prepare and submit a letterhead notice or make a book entry than it does to complete and submit TTB F 5110.34.

Letterhead notices: $100 \times 5 = 500 \times 30 \text{ minutes} = 15,000/60 = 250 \text{ hours}$

Book entries: $100 \times 5 = 500 \times 30 \text{ minutes} = 15,000/60 = 250 \text{ hours}$

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

No cost is associated with this collection.

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

No cost to the Federal Government is associated with this collection.

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

There is a program change associated with this collection. TTB has completely eliminated the need for TTB F 5110.34 and replaced it with letterhead notices or book entries.

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?

It would be inappropriate to display the expiration date for OMB approval because these are letterhead notices that are prepared by the respondent or records that are maintained by the respondent and unlike a form there is no medium for us to display the date.

18. What are the exceptions to the certification statement?

See items 3 and 5 of the Supporting Statement.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.