

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Requirement

OMB Control Number 1513-0048

TTB F 5110.41 Registration of Distilled Spirits Plants and
Miscellaneous Requests and Notices for Distilled Spirits
Plants

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.

Changes in this supporting statement and form reflect changes to section numbers as recodified in the final rule for the revision of part 19 of the TTB regulations. (See TTB Notice No. 83). Additionally the revised regulations remove some application requirements and provide for letterhead applications and notices in their place.

The Internal Revenue Code of 1986, in 26 U.S.C. Chapter 51, establishes certain qualification requirements for persons who wish to establish a distilled spirits plant (DSP). To assure that those qualifications are satisfied, Congress provided in 26 U.S.C. 5171 and 5172 that application for registration be made in such manner and form as the Secretary may prescribe. TTB F 5110.41, as prescribed by regulations in 27 CFR 19.71 and 19.72, implements that statutory requirement.

Further, Congress provided in 26 U.S.C. 5201 that DSPs must conduct all operations in conformity with such regulations as the Secretary shall prescribe. Regulations in 27 CFR Part 19 were prescribed pursuant to that provision. Nevertheless, both the law and regulations recognize that, under certain circumstances the efficiency of the industry and the interests of the Government would be best served by allowing variations from the regulatory requirements. Part 19, therefore, provides for the submission of various miscellaneous notices or requests to vary from the requirements of that part.

Respondents to these collections of information are the DSPs authorized under the provisions of 26 U.S.C. 5171 and others who may be required to respond.

Also included in this request for review are various miscellaneous requests required of persons who are neither registered DSPs nor applicants for registration but are required by law or regulation to submit notices or applications related to DSP activities.

This information collection is aligned with:

Treasury Strategic Goal: US & World Economies Perform at Full Performance Potential.

Line of Business/Sub-function: Law Enforcement/Substance Control.

IT Investment: Tax Major Application Systems.

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

a. Registration requirements

Regulations in 27 CFR 19.71, 19.72, and 19.116 require that any person who intends to establish a DSP or succeed to the proprietorship of an existing DSP must, before commencing operations, make application and receive notice of registration on TTB F 5110.41. The form serves essentially as a transmittal document for the supporting documents and information that must be submitted as part of the application for registration.

The regulations that prescribe the information that must be submitted in support of an application for registration on TTB F 5110.41 are found at:

19.73	19.76	19.79
19.74	19.77	
19.75	19.78	

Persons file TTB F 5110.41 with TTB National Revenue Center (NRC) where the form and its attachments are carefully examined by specialists for conformity with applicable law and regulations. Before the notice is approved, it is generally referred to field personnel for verification.

The proprietor is also required to amend their registration when changes occur that affect the information provided in their application for registration. Some changes require the filing of a form TTB F 5110.41, while other changes may be accomplished by submitting a letterhead application or a letterhead notice. The regulations governing changes to the registration are located at:

19.112	19.116	19.120
19.113	19.117	19.121
19.114	19.118	19.122
19.115	19.119	19.123

b. Requests and notices.

Our specialists, who frequently work with the analysis and recommendations of our investigators, use the notices and requests for variances from regulations to determine whether the proposed variation jeopardizes the revenue, creates undue administrative problems, or is contrary to the law.

These requests and notices include the following sections:

- § 19.13 Requirement to submit a schedule of operation;
- § 19.26, 27 Alternate methods or procedures. (Requires a written application to the appropriate TTB officer for approval of a variance from regulatory requirements);
- § 19.55 Other businesses. Request to conduct other businesses on DSP premises (See also § 19.73(b));
- § 19.28 Emergency alternate methods or procedures. (Provides for applications to the appropriate TTB officer for variances from regulatory requirements under emergency conditions);
- § 19.281 Gauging. (Provides for the approval of alternative means of gauging);
- § 19.441 Securing of conveyances. (Provides for the approval of securing devices other than those specifically approved by regulations and for the use of letter abbreviations for the name of the proprietor pursuant to request);
- § 19.60 Spirits in customs custody. (Requires a description of the route and means for the conveyance of spirits in customs custody across DSP premises);
- § 19.54 Request to store distilled spirits other than as provided in regulations;
- § 19.56 Request to establish bonded warehouse of less than the minimum storage capacity;
- § 19.114 Request to submit lists of stockholders on a date other than May 1;
- § 19.116 Request, by successor in business, to adopt formulas of the predecessor;
- § 19.261 Authorizes a request for information on prior criminal connections to determine qualification under 26 U.S.C. 5551;
- § 19.170,171 Termination of bonds. (Provides for a notice of discontinuance of withdrawals under bond or discontinuance of business to effect a termination of the bond);

§ 19.192 Security. (Provides for requests to use locks which do not meet the specifications of this section);

§ 19.352 Bottling tanks. (Provides for a notice to bottle spirits from other than approved bottling tanks);

§ 19.372 Inventories of bottled and packaged spirits. (Provides for an application to conduct inventories at times other than prescribed by regulations);

§ 19.384 Adding denaturants. (Provides for an application to use alternate methods for mixing denaturants);

§ 19.392 Conversion of denatured alcohol formulas. (Provides for approval of requests to convert formulas for specially denatured alcohol other than as specifically authorized);

§ 19.388 Receipt and storage of denatured spirits. (Provides for an application to store denatured spirits other than as provided in regulations);

§ 19.462 Determinations of losses in bond. (Provides for the reporting of certain losses to the area supervisor);

§ 19.487 Kind of spirits. (Provides for applications to change the designation of spirits and to obtain a designation of spirits for which none is prescribed by regulations);

§ 19.459 Voluntary destruction. (Requires a notice for the destruction of wine on DSP premises);

§ 19.434 Spirits withdrawn from bonded premises. (Provides for an application to remove samples to a commercial laboratory);

§ 28.198 Notice of return. (Provides for a notice when spirits for which export drawback has been claimed are not to be exported).

c. Requests and notices by non-DSP proprietors.

Various sections of law and regulations require that persons other than DSP proprietors submit notices or applications related to DSP activities. These requirements include the following sections:

27 CFR 19.33 provides for an application by one who wishes to establish an experimental DSP. The information required in the application

allows us to identify the applicant and location of the premises, determine whether the applicant is qualified under 26 U.S.C. 5312(b), and determine the potential tax liability to be covered by bond.

- 27 CFR 19.36, 37 provides for an application by one who produces non-potable spirits in an industrial process for waiver of the requirements of 26 U.S.C. Chapter 51. The application allows us to identify the applicant and determine the eligibility for waiver of those requirements in accordance with 26 U.S.C. 5201(b).
- 27 CFR 19.34, 35 provides for an application by a scientific institution or college of learning to produce, receive, blend, treat, test or store distilled spirits for experimental or research use in accordance with 26 U.S.C. 5312(a). The information on the application allows us to identify the applicant and determine its qualifications.
- 27 CFR 19.171 provides for a notice by a surety for any bond required by Part 19 to be relieved of liability. The notice merely notifies us of the termination of liability so that appropriate action may be taken to protect the revenue. (See also 27 CFR 19.172.)
- 27 CFR 19.420 provides that a scientific institution or college of learning qualified under 27 CFR 19.71, above, must submit a request to withdraw spirits free of tax from a DSP. The approved request constitutes the authorization for the DSP to remove the spirits free of tax.

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?

Persons may file a DSP application for registration electronically using TTB's Permits Online system at <https://ttbonline.gov/permitsonline>. However, we do not believe that the letterhead notices and requests prescribed in Part 19 are adaptable to advanced data technology at this time. We plan to change this in the near future. We have approved, and will continue to consider for approval, on a case-by-case basis, the use of improved technology for reporting and recording the 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?

TTB F 5110.41 collects information that is pertinent to each respondent and applicable to his/her specific operation. The request and notices provides 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 collection of information is not susceptible to reduced requirements for small businesses.

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 these collections of information, relating to qualification requirements, we would have no procedure for fulfilling our statutory mandate to issue permits for authorized distilled spirits operations. Without the collections of information relating to alternate procedures, variances, and waivers, we would have no procedure for allowing any method or activity not specifically prescribed by regulations, and the industry would be without the flexibility accorded thereby.

We believe the frequency of collection is at the minimum necessary for fulfillment of our statutory responsibilities.

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.

An 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 the burden associated with forms by allowing letterhead applications and notices where possible. No comments were opposed to changes that are affected by this information collection. As a result, a final rule (T.D. TTB-92, 76 FR 9080) was published to reflect the changes that were proposed in Notice No. 83. For this collection, several section numbers were changed and letterhead notices are accepted to amend registration rather than submitting TTB 5110.41.

A 60-day Federal Register notice was published to renew this information collection on Friday, June 29, 2012, 77 FR 38886. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than remuneration 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?

These collections of information are maintained at the NRC in secure file rooms with

controlled public access. Moreover, 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?

The estimated total burden of 4,471 hours imposed by these collections of information is described below and is based on experience of our personnel who have been closely involved in assisting industry members to prepare this information.

a. Original applications for registration normally require a full 8-hour day to complete manually and 6 hours electronically, the Bureau received 421 applications during the last 12-month period. The registration is submitted once. (219 on paper and 202 electronically) The burden hours for the 219 manual registrations are $219 \times 1 = 219$ and the burden hours for the electronic registrations are $202 \times 1 = 202$. Letterhead notices and applications for amendments to permits require approximately 1 hour to complete. Each of the DSPs will normally submit an average of 1.9 such responses each year. ($421 \times 1.9 = 799.9$)

The burden imposed by Part 19's registration requirements is estimated at 3,764 hours ($1,752 + 1,212 = 2,964 + 799.9 = 3,763.9$).

Applications and Letterhead Notices and Applications

# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
Paper: 219 Electronic:202	1 1	219 202	8 6	1,752 1,212
421	1	421	1.9	800

b. Requests for variances from regulatory requirements require, on the average, approximately 1.2 hours to prepare, and each DSP will, on the average, submit 1.3 such requests per year. ($421 \times 1.3 = 547.3$)

The burden for these requirements is therefore estimated at (656.76) 657 hours.

c. The Bureau normally receives approximately 50 requests each year from

persons who are not DSP proprietors. Each such request or notice requires approximately one hour to prepare and the burden imposed by these requirements is therefore estimated at 50 hours. (50 X 1 = 50 X 1 = 50)

Variations, and Request or Notices

# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
b. 421	1.3	547	1.2	657
c. 50	1	50	1	50

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?

Estimates of annualized costs to the Federal Government are presented below for TTB F 5110.41. There is no cost to the Federal Government for the various letterhead notices and letterhead applications required.

Printing	\$ 700
Distribution	80
Clerical Costs	60
Other Salary Costs (review, supervision, etc.)	<u>400</u>
Total Cost	\$1,240

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

There is an adjustment associated with this collection. The number of DSPs has gone up as a result of the rapidly growing trend in boutique distilleries. There is also a program change associated with this submission as a result of the revisions that were made to incorporate final rule 27 CFR Parts 1, 17, 19, et al., *Revision of Distilled Spirits Plant Regulations* (February 16, 2011, at 75 FR 9080) with this information collection. The rule modernized requirements for operating distilled spirits plants and included a number of operational changes (renumbering) to improve the layout of the regulatory text. Additionally the revised regulations remove some application requirements and provide for letterhead applications and notices in their place.

Letterhead notices and applications take fewer hours to prepare.

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?

- (c) See item 5 above
- (f) This is not a recordkeeping requirement
- (i) No statistics are involved

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.